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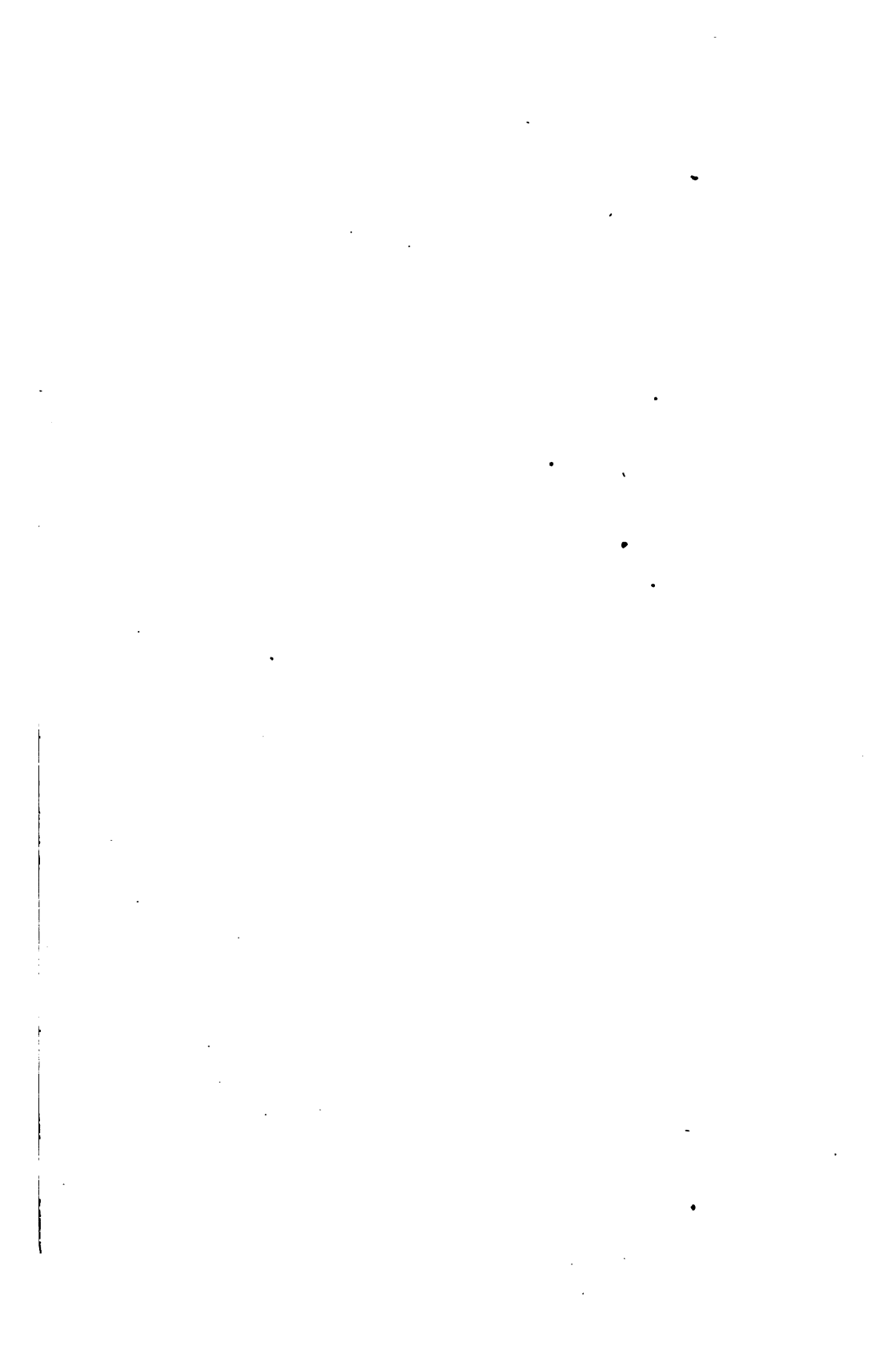
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STUDIES
IN
ENGLISH HISTORY

Edinburgh : Printed by Thomas and Archibald Constable, .

FOR

DAVID DOUGLAS.

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STUDIES
IN
ENGLISH HISTORY

BY JAMES GAIRDNER

EDITOR OF "THE PASTON LETTERS,"

AND

JAMES SPEDDING

EDITOR OF "LETTERS AND LIFE OF LORD BACON."



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PREFACE.

THIS volume is the result of some conversations which passed between myself and the late Mr. Spedding a few weeks before his sad and unexpected death. Mr. Spedding, who is known to the world at large mainly by his elaborate edition of Lord Bacon's Works, had collected two years before a number of his fugitive papers on subjects not connected with the great philosopher. The two articles from his pen contained in the present volume might almost have been included in that publication, for they may certainly be classed, as regards the mere subjects, among papers "not relating to Bacon." They were, however, distinctly the fruit of their author's Baconian studies; and that was probably one reason why they were not included. Another, perhaps, was the fact that they were of an historical character, while the writings collected in 1879 were, as declared upon the title-page, "literary, political, and philosophical."

Of these two articles, that on Katharine of Arragon had a special interest for me, as I had myself devoted some attention to the reign of

Henry VII.; and I was glad to find Mr. Spedding not unwilling to republish it in a more permanent form than that of a magazine article. No one who values history can see without regret such careful and painstaking work thrown away, as it were, in a corner where even those interested in the subject will not know where to look for it. Original research is not such a very abundant commodity that it should be left to take its place among more ephemeral productions; and when a writer like Mr. Spedding has taken the trouble to extract for the first time from authentic evidences a detailed account of transactions which have had important consequences, it is a serious loss to the world that the very existence of such a treasure should not be generally known.

I therefore suggested to Mr. Spedding the publication of a joint collection of historical articles reprinted from periodicals, which each of us would be able to expand or to modify at pleasure. To this scheme he readily agreed, and, arrangements being soon after made with Mr. Douglas for the publication, he was on the point of revising and adding to the article on Katharine of Arragon, when he met with the accident which in a few days brought him to his grave. After the occurrence he gave directions that that article should be sent to me to be republished just as it stood. He had

previously sent me, for the same purpose, his paper on the murder of Sir Thomas Overbury which originally appeared in the *Archæologia*, and which I am kindly permitted by the Society of Antiquaries to reprint.

Greatly as we may regret that these papers have not had the benefit of a final revision by their author, there is one point, I think, of which we may feel pretty well assured—the revision would have involved little or nothing in the way of positive correction. Mr. Spedding was one of those thorough and accurate workers who never wrote anything without having fully mastered the whole subject beforehand. It is indeed much to be regretted that one so admirably qualified to be an historian himself never attempted anything higher in that line than a comment on other men's labours, or a critical investigation of some particular controversy. Those who would appreciate the painstaking accuracy of his research may be referred to the sixth volume of his edition of Lord Bacon's Works, containing the History of Henry VII. No one certainly would have thought it incumbent on an editor of Bacon, in reprinting such a work, to make a very special study, for his own part, of the reign of which it gives an account. But Mr. Spedding was resolved to sift matters to the foundation. He was determined to find out for himself what authorities

Bacon had before him, how far he had followed them correctly, how far those authorities themselves were to be trusted, and what other sources of information were available at the present day. The completeness with which this investigation was carried out is really beyond all praise. Not a manuscript in the British Museum bearing on the history of Henry VII. escaped his notice; and wherever Bacon's statements require correction or modification, the reader will find the whole state of the case explained with remarkable lucidity in Mr. Spedding's footnotes.

Nor must it be supposed that, in his devoted admiration of a great genius, Mr. Spedding showed himself too anxious to vindicate Bacon's accuracy as an historian. That he was not carried too far in other respects by the spirit of hero-worship I will not venture to maintain; but I think it will be the opinion of competent critics, that in this independent investigation of the reign of Henry VII., which he thought it right to make for the purpose of annotating Bacon's history, he never allowed his judgment to be unduly biassed in favour of his author. His notes contain very material corrections of Lord Bacon's narrative; and, indeed, there is scarcely a point on which the accuracy of the history can be distinctly challenged, that he has not carefully discussed, with a manifest desire to

arrive at the simple truth. No other writer, in fact, has done anything like so much as Mr. Spedding has done to prevent readers being misled by erroneous statements in Bacon's Henry VII. In stating this, however, I feel that I hardly do justice to his perfect independence of judgment; for it is not mere candour that characterises these annotations, but a very remarkable originality and singular breadth of view.

With regard to my own share in furnishing the materials of this volume, I can only say that the subjects discussed in these papers have engaged my attention for many years past, and the papers themselves are reprinted, in some cases, with considerable alterations, either to convey my latest and most mature thoughts, or for some other reason. One of them, it will be seen, forms a kind of sequel to Mr. Spedding's article on Katharine of Arragon, setting forth the diplomatic history of her second marriage, as Mr. Spedding had done that of her first. It originally appeared in *Fraser's Magazine*, in the form of a review, the criticism in which, having served its purpose, I thought it as well to leave out, so as to turn the article into a simple narrative. The articles which have undergone the most important alterations are the two on "The Lollards," with which the volume opens. These originally appeared in *The Fortnightly Review*, in

August 1865, under the title, "Bible Study in the Fifteenth Century;" and I am bound to say that some of the sentiments there expressed are such as I no longer hold. For this reason I was glad of an opportunity of revising them, and eliminating passages which I feel were only too much in harmony with the sceptical spirit of the age.

The other papers have undergone some changes, principally in the way of addition—all except the last, which contains allusions to recent occurrences at the time it was written, and which I thought it best, on the whole, to reprint in the very form in which it was originally published.

It remains for me to express my thanks to the proprietors of the different periodicals in which these papers first appeared, for permission to reprint them; that is to say, to the proprietors of *The Fortnightly Review*, for the three articles of mine which appeared in that serial; to Messrs. Longman, for one by Mr. Spedding and two of my own, that appeared in *Fraser*; to Mr. Strahan, for an article that appeared in the *Contemporary*; and to the Society of Antiquaries, for Mr. Spedding's paper on Sir T. Overbury, in the *Archæologia*. In the table of contents the source of each article is specified, and the initials of the author, J. G., or J. S., show whether it is by myself or by Mr. Spedding.

JAMES GAIRDNER.

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I.

THE LOLLARDS.

IF ever there was a great movement in history which can be distinctly said not to have originated in the will of man, it was certainly the English Reformation under Henry VIII. In other countries the revolution was brought about, controlled, or guided by some great theological leader. Germany had a Luther, Geneva had a Calvin, and Scotland had her own John Knox. But in England there was no master intellect, no one profound theologian or hard-headed theological politician who took the lead in a new movement. Nor, if there had been, would he have carried the nation with him. For there was certainly no such widespread feeling of abuses and corruptions in the Church as would have sufficed to alter doctrinal standards and remodel ecclesiastical jurisdiction. It was not zeal for religion, but rather lust and tyranny, that first gave occasion to the movement; and the direction which that movement took was one which neither king nor nation could be said to have very ardently desired.

Many, no doubt, have been disposed to trace the doctrines of the Reformation to an earlier

period, and regard Wycliffe and his followers as having sowed the seed which afterwards yielded such an abundant harvest. But there is no appearance that the teaching of Wycliffe was at the beginning of Henry VIII.'s reign at all in general favour. His popularity, great as it was in his own day, seems rapidly to have declined after his death; and certainly his followers as a body showed very little disposition to revolt against the Church, or demand a reform of her constitution. It was in Bohemia, not in England, that such symptoms made themselves manifest,—in Bohemia, where the perfidy shown to John Huss and Jerome of Prague naturally aroused tenfold worse passions than it intimidated and repressed. Elsewhere the decisions of the Council of Constance were generally respected. Thirty years after his death Wycliffe was authoritatively pronounced to have been a heretic; and it would be difficult to show that Englishmen at the time much resented the burning of his bones.

Still it would be unreasonable to suppose that a movement once so widespread as Lollardy had left no permanent results in the hearts and minds of men. No heresy ever gained strong and zealous support in any age without clearing the atmosphere of some corruptions; for no great heretical movement, however misdirected, has been wholly destitute of a certain element of truth, which in the end has leavened the whole Church of Christ after the heresy itself had lost its power. We might, there-

fore, naturally expect, as the result of certain spiritual laws which are always in operation, that on the eve of Henry's rupture with Rome, although nothing that could be called a Lollard sect existed, the religion of Englishmen in general, if not even of other countries also, was largely tinged with an element which had come down from the Lollard teaching of an earlier day.

And there can be little doubt such was actually the case. Wycliffe's translation of the Bible itself created a new era, and gave birth to what may be said never to have existed till then—a popular theology. It was a new thing altogether for a learned schoolman to write tracts in English for the people. Divinity had as yet been confined to the Universities. The religion of laymen consisted for the most part merely in such things as going to mass and doing penance, or purchasing indulgences by costly gifts to the Church, and occasionally going on a pilgrimage. The sufficiency of these things was taken for granted, nor were the clergy themselves too eager to satisfy inquiries as to the first principles of religion. Preaching was rare, and the system of the Church had become almost purely mechanical. Of the regular clergy many were pluralists and absentees. The different orders of friars, who had done so much in a former age to infuse new life into a dying Christianity, were smitten with the general lethargy. Their chief care seemed to be to enrich their houses, and amass wealth by the sale of indulgences.

Of this state of matters we have a remarkably vivid description in the contemporary poem entitled "The Creed of Piers Ploughman." The writer describes his anxiety to learn the true doctrines of Christianity, and his fruitless applications to each of the different orders of friars to teach him his Creed. He has mastered his A B C, pattered his Paternoster, and knew the Ave Maria almost to the end ; but not knowing his Creed, he expected the priest would impose upon him a hard penance, and the words of Jesus himself impressed him still more with the needfulness of a true belief. A Carmelite had promised to teach him what was necessary ; but before going to him he asks counsel of a Minorite. The Minorite laughs in his face, and asks how he can expect to be taught anything good by those who have no good in themselves ? The Carmelites, he said, were a set of worthless knaves, who kept concubines and deceived the people. They called themselves Mary's men, and were continually beguiling women. They drank deep at fairs, and preached of pardon to please the people, saying nothing of penance or of the doctrines of St. Paul. They were those of whom Paul said, weeping, that "they were enemies of the cross of Christ." The Minorite then recommends his own order. "We haunt no taverns," he said, "have nothing to do with markets, touch no money, and never eat but when we are hungry ; we have forsaken the world, live in penance and poverty, and pray for those who give us any good wherewith we

may honour God. A bell or a book, food, clothes, or other chattels, would be acceptable. We are building a large edifice—a church and chapter-house, with chambers aloft, with high walls and wide windows to be adorned with gay glittering glass; and if you are inclined to help us with your money, you shall be represented in gold, in the middle of the western window, kneeling before Christ, and St. Francis himself shall fold you in his cope, and present you to the Trinity. As for your Creed, you need take no more trouble about that, for I pledge my soul to assoil you.”

But the writer, struck with the Minorite's want of charity in aspersing the Carmelites, and the real covetousness of the order, notwithstanding their rule not to touch money, goes next to the Dominicans or Preachers. After gazing a while at the exterior of their magnificent house, with its well-wrought windows, and painted pillars carved in curious knots, he entered. Wide walls, with private posterns, enclosed orchards and arbours, and a curious cross beautifully sculptured with tabernacles, the workmanship of which would have been cheap at the price of a ploughland. The monastery itself was a mansion built with arches on every side, finely carved—

“ With crochetes on corneres
 With knottes of gold.
 Wyde wyndowes y-wrought,
 Y-wryten ful thikke,
 Shynen with shapen sheldes,
 To shewen aboute,

With merkes of merchauntes
Y-medeled betwene,
Mo than twentie and two
Twyse y-noumbbred."

Then there were magnificent tombs and effigies of knights in marble, with their ladies by their sides, in garments inlaid with gold. Even if the tax had been truly collected for ten years, it would not have half sufficed to build that house. He came to the cloister well paved, and covered with lead, with tin conduits and lavers of "laten," and to the chapter-house, built like a great church. The refectory was like a hall for a king's household, with broad boards and benches, and windows of glass. Everywhere were high walls, and noble houses, and kitchens on a scale of royal magnificence, all with strong stone walls, and every aperture well glazed. Yet the dwellers in these palaces would beg a bag of wheat from a poor man scarce able to pay half his rent!

In the refectory the inquirer addressed himself to a friar seated on a bench, "a great churl and a grim, grown as a tun, with a face so fat as a full bladder," and asked to be recommended to some worthy man who would teach him to know his Creed, adding that he had been exhorted by an Augustinian, who assured him that his order was the first founded since Christ died. To this the friar answered, "Fie upon his cloth!" and denounced the Austin Friars as the friends of prostitutes and thieves, to whom they sold privileges, caring for

nothing but money. "Our order," he said, "was founded before theirs; and we are famous for the learned clerks, bishops, saints, and popes that have belonged to us." "Ah!" said the other, "and yet, according to what Christ said, he that would be greatest should become the least. He praised humility; here I find nothing but pride: so farewell!" He then turns his steps towards the Augustinians, and makes the same request to one of them, saying that a Minorite had offered to heal his soul, and recommended his own order as the safest. The Augustinian immediately launches out into abuse of the Minorites, many of whom had more wealth than ten knights, and who lived on better fare than any of the other orders, for all their pretence of poverty. Professing to follow the rule of St. Francis, they had more cloth in the lining of their capes than St. Francis allowed in their frocks when the order was instituted; and yet under these capes they had coats lined with the fur of martens, weasels, or fine beaver, cut to the knee, and buttoned so as not to be seen. St. Francis bade the brethren go barefoot, but they wore buckled shoes, because their heels blistered, and put on hose in rough weather. They were in favour with lords, because they stooped so low; but if men knew their hypocrisy, they would be little esteemed. "But," said the friar, "you need go no further for what you are in search of. We Augustinians are the first of the orders, and founded upon truth. Paul, the first hermit, led us himself into the wilderness, and

taught us to despise the world ; but as these friars, who were founded in towns, mistaught the people, we made our cells in cities to teach them aright. We have power from the Pope to assoil those who help our house, and to dispense with them for sin. Help us with money, corn, cattle, bed-clothes, beads, or broche, or bread, and I undertake you shall be a brother of our house, and have a book sealed at the next chapter. Then, our provincial has power to assoil all sisters and brothers of our order ; and although you know not your Creed, kneel down here, I pledge my soul to assoil you clean, if you come back and bring us something."

Thus, instead of obtaining a creed to satisfy his conscience, he was again asked to minister to the pride and covetousness of a sect. He yet resolves to try the Carmelites, two of whom he finds in a tavern. Making the same request as before, he addresses one of them, mentioning that a Preacher (that is to say, a Black Friar or Dominican) had promised to teach him. "A trifle!" exclaims the Carmelite ; "the Preachers are no true followers of St. Dominic. They ingratiate themselves with lords, amass money, and buy bishoprics. They are counsellors of kings, but when did they ever help a poor wight that could do no good to their house ? As sure as the Minors excel in hypocrisy, so do the Preachers in pride. But, Christian, we Carmelites came before them all, in the time of Elijah, and we serve our Lady in purity of life ; not proudly and worldly like the Preachers, but continually busy

with our beads. Believe me, one mass performed by us is worth all their prayers; and if you will give us anything to help our house, I promise to assoil you, even though you do not know your Creed." "To tell the truth," says the inquirer, "I have not a penny to pay for my meat; I work for my food. But if you would teach me my Creed for the love of God, I would reward you when it was in my power." "Really," says the friar in answer, "I take you for a fool. You want to catch fish, and will not wet your feet. Farewell. I must hence to visit a housewife who has bequeathed us ten pounds. I think she is on her deathbed, and fear she may alter her will." "God forbid!" exclaims his companion. "May she depart before she change her purpose. God let her not live longer!"

While these unseemly jealousies existed between the different religious orders, society at large appears to have been equally divided. Chaucer's pilgrims could not travel peacefully together on the road to Canterbury, but were continually wounding each other's class feelings by the tales they told to beguile the journey. The sensitiveness of some of the company is almost unaccountable. The drunken miller first offends the reeve by the bare proposal to tell a story of a carpenter. The reeve, who was "of carpentrye craft," revenges himself by telling an indecent story of a miller. The host throws gross contempt on the pardoner and his relics. The friar's tale is directed against "Sompnours," a class of men of whom he declares it notorious no good

can ever be said. The "Sompnour," who is described as "quaking for ire like an aspen leaf," retaliates upon friars in general with ludicrous and biting satire. Everything betokens a strange prevalence of class animosities and standing feuds between different orders and callings. Even the poor parson, whose character is so beautifully depicted, is not exempt from reproach and insult, but when he objects to profane swearing he is at once denounced as a Lollard. High and low, rich and poor, trades and fellowships of all sorts were at variance; and social disorder was fast leading on to political convulsion.

How could it be otherwise when the whole fabric of Christianity seemed to be riven asunder? The Papacy had lost its power by the long sojourn of the Popes at Avignon, and the principle of national religion was not yet strong enough to take its place. The return of Urban VI. to Rome was succeeded by a schism in which two rival sets of Popes divided the allegiance of Christendom for nearly forty years. The political condition of the world was not more hopeful than the spiritual; nothing seemed to promise peace and goodwill upon earth, or even domestic order. In England the sceptre of Edward III. had fallen into the hands of a weak and self-willed boy. The glories of war and chivalry had been tainted in too many cases with mercenary imputations, besides having been followed by calamity and discontent at home. Two mighty pestilences had ravaged the land, till the

fields lay untilled for lack of labourers. The emancipation of villeins, always favoured by the genius of English law, was attempted to be restrained by Parliament.¹ But the toe of the peasant still pressed too near the heel of the courtier, and the rebellion of Wat Tyler not only horrified the world by its atrocities, but placed the governing classes for the moment in subjection to those whom they had oppressed.

Amid this general decay of religion and loosening of the bonds of society, what wonder if the sense of reverence had fallen very low among the people? There were popular preachers who, having shaken off some portions of traditional theology, strove hard to bring into contempt the doctrines and practices that they renounced. Their plain, blunt sense could see no mystery in things tangible. They rejected the doctrine of the Real Presence, denounced the use of images in churches, and inveighed against pilgrimages as foolish and unprofitable. Nor could they be satisfied to declare their own opinions without insulting those of others. The saints to whose shrines men had been used to make pilgrimages were spoken of as the Witch of Lincoln and the Witch of Walsingham. The images were treated with open disrespect. Two clergymen at Leicester wanted fuel to cook their victuals: "Here," said one, "is an image of St. Catherine; let us make her a martyr once more." Then taking up a hatchet, "Let us see if she will bleed," he

¹ Statute 1 Ric. II. c. 6.

said ; "if not, she will help us to boil our cabbage."¹ Indignant hatred of shams may no doubt justify at times a very stern iconoclasm ; but the milder Christian graces are too apt to escape in the process. We need not wonder that these men aroused the strongest animosity of their opponents. They could have done that by conduct far less offensive in an age whose petty class feelings it is so hard for us to comprehend.

It need hardly be considered to detract from Wycliffe's greatness if even he was not exempt from those class feelings. He was one of the regular clergy, among whom the friars were never popular, and he denounces them and their orders with all the vehemence of the times. Their orders were, indeed, an encroachment on the Church's system, which a sturdy Churchman could not be expected to approve. They were something like the modern Dissenters—an irregular set of practitioners in the cure of souls. But they were open to still more serious criticism as having utterly perverted and falsified the grand idea of their original foundation. They were to have been self-denying missionaries bound to lifelong poverty ; but their avarice, as we have seen, was continually endeavouring to extract new gifts and endowments from the liberality of their supporters. Wycliffe regarded endowments as the bane of spiritual life, and he denounced their practice most unsparingly. He, moreover, told the laity that the granting of such endowments was a

¹ Knighton, 2662.

sin. It was a sin even to endow the regular clergy. They ought to live simply on the tithes and free-will offerings of the faithful, and nothing else should be set apart for their maintenance. They ought not to covet secular employments, or even to accept them if offered. This, indeed, had been the strongly expressed opinion of great Churchmen long before Wycliffe's day. Civil offices conferred upon the clergy were objected to as tarnishing their lustre; in the eyes of men like Grosseteste it was turning sunlight into moonlight.¹ And Wycliffe was of the same opinion.

But while in this matter Wycliffe followed the highest traditions of his order, he offended their prejudices deeply in other things; so much so that the friars found sympathisers among the clergy in opposition to his views. His great idea was to familiarise the laity with the teaching of the Bible by translating it into their mother tongue; to preach upon it, and to bring it home to the people as much as possible. Preaching, he maintained, was the very best work that a priest could do,—better even than praying or administering the sacrament.² There seems no doubt that he gave a great impulse to the practice, and that under the encouragement of his teaching, while no doubt many valuable things were said to the people, a great deal of very extravagant utterances were set forth by some. These extravagances were noted by the

¹ R. Grosseteste, *Epistolæ*, 349, Rolls ed.

² Matthew's *English Works of Wyclif*, pp. 111, 189, 441.

enemies of the movement, and set down to Wycliffe's account. But the translation of the Bible seemed almost more objectionable. It is difficult in our day to imagine the impression such a book must have produced in an age which had scarcely anything in the way of popular literature, and which had been accustomed to regard the Scriptures as the special property of the learned. It was welcomed with an enthusiasm which could not be restrained, and read with avidity both by priests and laymen. Its mere popularity seemed not only to impair the old traditional reverence for the Latin text, but in some measure to degrade theology by removing it into the vulgar atmosphere of common life.

The book was accordingly denounced in no measured terms by ecclesiastics of the old school. "This Master Wycliffe," says Knighton, "translated into English, not an angelic tongue (*in Anglicam linguam, non angelicam*), the gospel that Christ committed to the clergy and doctors of the Church, that they might administer it gently to laymen and infirm persons, according to the requirements of the time and their individual wants and mental hunger. So by him it has become common, and more open to laymen and women who know how to read than it usually is to clerks of good understanding with a fair amount of learning. And thus the gospel pearl is cast forth and trodden by swine; what used to be held dear by clerks and laymen has become, as it were, a common amusement to both (*quasi jocositas communis utriusque*);

the gem of clerks is turned into the sport of laymen; and what was once a talent given from above to clergy and doctors of the Church, is for ever common to the laity."¹ It was quite true. For good or evil Wycliffe had placed the precious book once for all in the hands of the people, and the learned could never again be the exclusive custodians of divine truth. Holy writ was henceforth vulgarised. The homely wisdom, blended with eternal truth, which has long since enriched our vernacular speech with a multitude of proverbs, could not thenceforth be restrained in its circulation by mere pious awe or time-honoured prejudice. Divinity was discussed in alehouses. Popular preachers made war upon old prejudices, and did much to shock that sense of reverence which belonged to an earlier generation. A new school had arisen with a theology of its own, warning the people against the delusive preaching of the friars, and asserting loudly its own claims to be true and evangelical, on the ground that it possessed the gospel in the English tongue.² Appealing to such an authority in their favour, the eloquence of the new teachers made a marvellous impression. Their followers increased with extraor-

¹ Knighton, 2644.

² "Isti Wycliviani sectam suam maxime commendabilem publicabant, et omnem populum ubilibet, tam virorum quam mulierum, adhortabantur ad eam, doctrinasque et prædicationes cæterorum omnium ut respuerent incitabant, nec prædicationibus fratrum mendicantium, quos falsos prædicatores nominabant, quoquo modo interessent, tam publice quam occulte ferventi studio indesinenter edocebant; semper eis insidiabantur falsos fratres vocantes, seipsos veros prædicatores et evangelicos eo quod evangelium in Anglicam linguam habebant translatum vociferabant."—Knighton, 2665.

dinary rapidity. By the estimate of an opponent they soon numbered half the population, and you could hardly see two persons in the street but one of them was a Wycliffite. So powerful had they become as a sect, that many professed Lollardy from fear. They were supported by the powerful influence of John of Gaunt, who shielded not only Wycliffe himself, but even the most violent of the fanatics. And, certainly, whatever might have been Wycliffe's own view, doctrines were promulgated by his reputed followers that were distinctly subversive of authority. John Ball fomented the insurrection of Wat Tyler by preaching the natural equality of men; and William Swynderby, who made his pulpit between two millstones, became twice as popular as before when he had been forbidden to preach by his bishop.¹

But the popularity of Lollardy was short-lived. The extravagance to which it had led soon alienated the sympathies of the people, and the sect fell off in numbers almost as rapidly as it had risen. Soon after the accession of Henry iv. acts began to be passed for the suppression of heresy, and little sympathy seems to have been extended to those who were committed to the flames. Under the two first sovereigns of the House of Lancaster the nation was gradually recovering from internal convulsions, and Henry v. appealed to the old spirit of chivalry in his war against France as a means of restoring order. With this revival Lollardy was found not

¹ Knighton, 2664, 2666, etc.

to be in very good keeping. The new religion, it was observed, made men sanctimonious in their manners, and forbade them to swear like gentlemen.¹ How unbecoming this was felt to be, we may see by the mocking ballads composed on the martyr Oldcastle, the most prominent supporter of Lollardy in the reign of Henry v.; of whom we find the opinion of his contemporaries expressed as follows:—

“Hit is unkyndly for a knight
That shuld a kynges castel kepe,
To bable the Bibel day and night
In restyng tyme when he shuld slepe,
And carefoly away to crepe
For alle the chief of chivalrie
Well aught hym to waile and wepe
That suyche lust hath in lollardie.

An Old Castel and not repaired
With wast walles and wowes wide;
The wages ben ful evyl wared
With suich a capitayn to abide,
That rereth riot for to ride
Agayns the kyng and his clergie,
With privè payne and porè pride.
Ther is a poynt of lollardie.”²

Nor was the feeling expressed in these lines by any means of a transient character. Tradition kept

¹ I have already alluded to the passage in Chaucer's “*Canterbury Tales*,” where the host asks the parson to relate a story in his turn, “for Goddes bones,” and the parson wonders what is the matter that he should swear so sinfully. The host at once sets him down as a Lollard, and the Shipman, to prevent his talking gospel or heresy, immediately breaks in with his tale unasked. It will be remembered, also, how Hotspur ridicules his wife's expressions, “In good sooth,” and bids her “swear, like a lady, a good mouthfilling oath.” In the same way it comes that one of Falstaff's vituperative epithets is “a rascally yea-forsooth knave.”

² Wright's *Political Poems*, vol. ii. p. 244.

Oldcastle's memory alive for nearly two centuries after his death, in a form which showed little respect for martyrdom. With his character travestied and his true history perverted, he became a well-known figure upon the stage, repeated in many rude dramatic entertainments, like the clown in modern pantomimes. His likeness was recognised in the form of a fat, dissolute knight, whose conversation smacked of Scriptural phraseology, and whose valour displayed itself in drinking sack and robbing travellers by night. In short, as I shall show in another paper, he was the prototype of Shakespeare's Falstaff; and there is evidence that even Shakespeare first presented him upon the stage by his original name of Oldcastle. But the growing influence of Puritanism in the days of Queen Elizabeth forbade the ridicule of one who was beginning to be regarded as a hero and a saint; so the name was altered to avoid offence.

Thus I have attempted to trace in a very few pages the story of the rise and decay of Lollardy. I now purpose in a second paper to examine some of its leading doctrines.

II.

THE LOLLARDS.

OF the peculiar tenets of the Lollards the best information that we possess is derived from a book written in answer to them by their contemporary, Bishop Pecock.¹ Although the work of an avowed opponent, it is scrupulously fair and candid; and besides its interest in connection with this subject, its philological value must recommend it to every lover of early English literature. Yet it is only in our own day that this work has seen the light, under the able editorship of Mr. Babington. For these four centuries the writings of Pecock have been allowed to remain in ms., and have only been looked at by one or two of the most zealous antiquarians. For the publication of his most important treatise we are indebted to the late Lord Romilly and the Government, the work being one of the series of *Chronicles and Memorials* issued under the direction of the Master of the Rolls.

Very little is known of Pecock's life; not even

¹ *The Repressor of Over-much Blaming of the Clergy*, by Reginald Pecock, D.D., some time Lord Bishop of Chichester. Edited by Churchill Babington, B.D., Fellow of St. John's College, Cambridge. Published by the authority of the Lords Commissioners of Her Majesty's Treasury, under the direction of the Master of the Rolls. London: Longman and Co. 1860.

the particulars of his parentage and birth have been ascertained, although a contemporary writer tells us he was born in Wales, and he is styled in a Papal Bull a priest of the diocese of St. David's. He was a fellow of Oriel College, Oxford, in 1417, and was ordained acolyte and sub-deacon in 1420, from which he proceeded to deacon's and priest's orders in the two following years; he was shortly after made Bachelor of Divinity. As a student, his unwearied diligence and great proficiency were commemorated by his very enemies, and his merits soon brought him under the notice of the Court. His first preferment was to the Mastership of Whittington College, London, to which the rectory of St. Michael in Riola was attached. This he probably owed to the favour of Humphrey, Duke of Gloucester, at that time Protector of England, the notable patron of clerks and men of letters. He held it for thirteen years, during which time, there cannot be a doubt, several of his smaller works were written. In 1444 the Protector's influence obtained for him the bishopric of St. Asaph's, and at the same time the University, to the scandal of some men, conferred upon him the degree of Doctor of Divinity, without requiring him to keep any exercise or act. Six years later, on the murder of Bishop Moleyns, he was promoted to the See of Chichester, his patron this time being that most unfortunate statesman William de la Pole, Duke of Suffolk, who soon after fell a victim to popular resentment.

He himself casually tells us that his administration of his diocese did not give universal satisfaction; but what objections were raised we are not informed. His views on many subjects startled people with their originality and daring. Three years after his consecration he preached a sermon at Paul's Cross, in which he maintained, against the general feeling of the time, that bishops were not bound by their office to preach, having duties of a higher character. He also vindicated their occasional non-residence upon their dioceses and other practices of long standing, which were then much complained of. On this there was a general outcry, not only from the ignorant populace, but from a host of learned antagonists, some of whom offered to prove him guilty of heresy; but for the time he escaped episcopal censure. The bishops whom he had defended naturally took his part, and several of the temporal lords, who, perhaps, since the days of Ball and Swynderby, looked upon preaching as rather a vulgar function, expressed their concurrence with his views; at the same time he himself did not take the full benefit of the exemption which he claimed for his order, for he preached so frequently in his own diocese as to show beyond all doubt that he had not justified an abuse from considerations of personal convenience.

Preaching, therefore, was in Pecock's eyes no necessary part of a bishop's duties, but a thing that he might do or not just as he considered expedient. What made it seem so in his own case we are at no

great loss to conjecture from the evidence of his written works. The controversies of the day seem to have constantly engaged his pen, and a long list of his writings might be compiled from the frequent references made to them in his *Repressor*. Of these, however, scarcely anything remains except the *Donet*, a treatise on the principal truths of Christianity, written before he was made a bishop, which makes mention of an earlier treatise still called the *Rule of Christian Religion*. It appears that even then his writings had gained more publicity than he had desired, and had been copied against his will, when he had only intended to circulate them among private friends. Some of them, it would seem, had already given offence, and he expressed his willingness, if they contained anything unorthodox, to submit to the judgment of his ordinary. A good deal later, Mr. Babington thinks about 1454, appeared the *Follower to the Donet*; but for some years before he had already been engaged on his great work, the *Repressor*, the object of which was to promote the peace of the Church by plain common-sense arguments against Lollardy, addressed to the understandings of the least learned among the laity in their own mother tongue.

Too rare at any time is the mild and tolerant spirit and the high sense of responsibility with which Pecock addressed himself to this work. "The clergy," he said, "shall be condemned at the last day, if by clear wit they draw not men into

consent of true faith otherwise than by fire, and sword, and hangment; although I will not deny these second means to be lawful, provided the former be first used." This is not, indeed, the modern doctrine of toleration, which deprives the Church of an arm then universally thought necessary; but we must not blame Pecock if, like his contemporaries, he believed too much in the deadliness of error to discard altogether the final means of vindicating the authority of the Church. He believed, however, that another mode of meeting heresy would be found far more effective, and felt it as his greatest obstacle that the ignorant common people were not taught logic, so as to know when an argument was conclusive and when it was insufficient. Logic was taught in Latin at the Universities. "Would God," he says, "that it were learned of all the common people in their mother's language, for then they shoulde thereby be put fro much rudeness and boistoseness which they han now in reasoning." And he thinks much good would be done if a short compendious treatise on logic were written in English for the use of the common people, which, if God grant him leisure, he hopes one day to compose himself.

Meanwhile, he will do his best to reason, even with untutored minds, and convince them, if possible, of the reasonableness of those doctrines and ordinances of the Church which they are disposed to reject as not founded on Scripture. In order to do this the more effectually, he strikes at

once at three fundamental errors on which, he conceives, almost the whole fabric of the Lollard heresy is grounded. These three "trowings," as he calls them, he takes care in the first place to define, and the language in which he sets them forth shows the most scrupulous anxiety to be just to his opponents. The first he states in the following terms :—"That no governance is to be hold of Christian men the service or the law of God, save it which is grounded in Holy Scripture, of the *New Testament*, as some of the before said men holden ; or namely, save it which is grounded in the *New Testament* or in the *Old*, and is not by the *New Testament* revoked, as some other of them holden." "In this trowing and holding," he adds, "they ben so kete (*i.e.* bold) and so smart and so wanton, that whenever any clerk affirmeth to them any governance being contrary to their wit and pleasure, though it lie full open and full surely in doom of reason, and therefore surely in moral law of kind (*i.e.* of nature), which is the law of God, for to be done ; yet they anon asken, 'Where groundest thou it in Holy Scripture in such a place which is not by the *New Testament* revoked ?' And if they hear not where so in Holy Scripture it is witnessed, they it despisen and not receiven as a governance of God's service and of God's moral law. This opinion they weenen to be grounded, *Matt. xxii.*, where Christ said to the Sadducees thus : 'Ye erren, not knowing Scriptures, neither the virtue or strength of God. . . . Han ye not read of the

ressurrection of dead men that it is said to us of God, I am God of Abraham, God of Isaac, God of Jacob?' etc. Also they weenen this opinion be grounden, John v., where Christ said to the Jews thus: 'Search ye Scriptures, for ye trowen you for to have everlasting life in them, and they ben which bearen witness of me.'"

The second "trowing" was that any Christian man or woman, meek and willing to understand the Scripture, should without fail discover its true meaning in any passage he or she might study, even if it were in the Apocalypse. This opinion was founded on a verse in Isaiah, translated in Wycliffe's Bible thus: "To whom shall I behold but to a little poor man, broken in heart, and trembling at my words?" also on the various other texts in Isaiah and elsewhere in praise of meekness. The third opinion was that when any one had thus gained an insight into the meaning of Scripture, he should listen to no argument to the contrary which any clerk might propound, either from reason or Scripture, and especially not from reason. For this warrant was found in some passages of the Epistle to the Colossians, in which Paul urges them not to be beguiled by philosophy and traditions of men.

Desirous to use, as much as possible, the argumentative weapons of his opponent, Pecock prefixed to his whole book the advice of Paul to Timothy, to "reprove, rebuke, exhort in all long-suffering and doctrine." From which expressions he contends that it is the duty of every one who finds it

necessary to censure his brother Christian, to do so with patience, and at the same time to see that he himself is possessed of such learning or knowledge as may enable him to show that the thing he reproves is really worthy of censure. The Lollards, who objected to many ordinances of the clergy, had not been mindful of this reasonable obligation; and he might apply to them the saying in the Gospels, "Physician, heal thyself." Without professing to defend every usage that might be objected to, there were eleven different ordinances of the Church that he undertook to justify against the popular objections; and in order that his purpose might be clearly understood, he had called his book *The Repressing of over miche wijting* (i.e. *blaming*) of the Clergie.

But how did he answer the three erroneous "trowings" of the Lollards? He argues in the first place at some length to establish thirteen conclusions, of which the first and most important is as follows:—"It longeth not to Holy Scripture, neither it is his office into which God hath him ordained, neither it is his part, for to ground any governance or deed of service of God, or any law of God, or any truth, which man's reason by nature may find, learn, and know." In other words, the Bible was not meant to be the foundation of truths that are sufficiently justified by human reason. The foundation of a thing must be that on which the whole structure rests; but no virtue, "governance," or truth of God's moral law rests only upon Scripture. The

duties of loving God and one's neighbour, may be discovered without Scripture at all by man's natural wit. These and many others had been acknowledged by heathen philosophers; and human reason teaches far more concerning them than can be found in the written revelation. On the subject of matrimony, for instance, the teaching of Scripture is limited to a very few lines, containing not the hundredth part of what the author himself had said in a treatise on that subject; and yet all that he had said was little enough to show what was needful to be known. In short, every truth touching man's moral duties might be equally well discovered if Scripture did not exist.

Again, before the positive law given by Moses, the Jews were bound by nearly the same moral duties as Christian men are; and the institution of the ceremonial law did not revoke these obligations, but added to them. Christ dispensed with the ceremonial law, but left in full force "the law of kind, which is not else than moral philosophy; which was burthen and charge both to the Jews and to all peoples before the Jews from Adam's coming out of Paradise." On the other hand, He instituted no new law except the Sacraments which stood in place of the old ceremonies. So that, with these few exceptions, the whole duty of Christian men rests on reason, and not on Scripture. Scripture exhorts us to keep that which is already presupposed to be known; it is no more the ground of moral law than of physical. Would any one call

Scripture the ground of the truth that it will be fair weather when the sky is red in the evening? Such a position would be evidently absurd.

And here he draws a corollary conclusion that the interpretation of Scripture must in all cases be accommodated to reason; the judgment of reason must not be overruled to suit Scripture. "Whenever and wherever, in Holy Scripture or out of Holy Scripture, be written any point or any governance of the said law of kind, it is more verily written in the book of man's soul than in the outward book of parchment or of vellum; and if any seeming discord be betwixt the words written in the outward book of Holy Scripture, and the doom of reason writ in man's soul and heart, the words so written without forth oughten to be expowned and interpreted, and brought for to accord with the doom of reason in thilk manner; and the doom of reason ought not for to be expowned, glosed, interpreted, and brought for to accord with the said outward writing in Holy Scripture of the Bible, or anywhere else out of the Bible. For why, when any matter is treated by it which is his ground, and by it which is not his ground, it is more to trust to the treating which is made thereof by the ground than by the treating thereof by it which is not thereof the ground; and if thilk two treatings oughten not discord, it followeth that the treating done by it which is not the ground ought be made for to accord with the treating which is made by the ground."

Who would have looked for words like these from a Churchman and a bishop? Pecock's very editor seems afraid of them, and denounces the principle they set forth as questionable. To us, in truth, it has somewhat of a rationalistic look, which would probably be enough to scare any bishop of our own day, except that candid and simple-minded missionary who, in trying to teach the gospel to Zulus, was himself converted from the errors of a *quasi* orthodox education. But it must be observed, in the first place, that Pecock has no wish to weaken the authority of Revelation, and he expressly acknowledges Scripture to be the foundation of faith. He only insists that "the law of kind"—that is to say, the moral law of nature—is more clearly written in our own hearts than in the Bible, and it would be wrong to set aside "the doom of reason" in deference to mere words, even though those words should be derived from the Bible itself. The principle, when it comes to be considered, is really axiomatic; the moral law of nature must be examined by the light of nature: the "law of kind" cannot rest upon the authority of a book, although the book may confirm it. Hence, reason in such matters is of superior authority to the book itself.

But however justifiable such a conclusion may be in itself, it certainly strikes the reader at first as inconsistent with conventional orthodoxy. That, however, was precisely the thing wherein its excellence lay; and it is a melancholy reflection that in the four centuries which have passed away since Pecock's

time, some of the errors which he sought to confute have really gained additional strength and currency. For conventional orthodoxy is not real orthodoxy. It does not represent the universal and permanent belief of thoughtful minds, but is impregnated with the superstitions of a particular age and country. Just in proportion as the Lollard or Puritan rejected the authority of a universal Church, he felt more and more compelled to found himself upon that of an infallible Book; and to this day the Protestantism of the multitude is associated with a belief in the letter of Scripture which the mediæval divine would have thought totally unnecessary. It was with the Lollards that bibliolatry began.

Pecock marked the error, and pointed out its danger in language of remarkable power and beauty. "If any man be feared," he says in one place, "lest he trespass to God if he make over little of Holy Scripture, which is the outward writing of the Old Testament and of the New, I ask why he is not afeard lest he make over little, and apprise over little, the *inward Scripture* of the beforespoken law of kind written by God himself in man's soul, when He made man's soul to His image and likeness?" The observation was just. Yet it might have been said after all that it was the inward Scripture that first led men to appreciate the outer so highly; for those who had read the Bible in their mother's tongue, he tells us, had found it "much delectable and sweet;" it drew the readers, Pecock admits, "into a devotion and a love to God, and from love

and dainty (fondness) of the world." This was how it had become so popular, and how its authority had come to be so exaggerated and misapplied. Yet the error would have been less dangerous had it not been for the second "trowing," which implied that Scripture might be interpreted with infallible accuracy by mere private study without the aid of learning. Pecock himself had heard men say as much,—“notwithstanding,” as he truly remarks, “that there is no book written in the world by which a man shall rather take an occasion for to err.”

The warning, surely, is not less needed now than it was four hundred years ago. But our subject is the past, not the present. There is no doubt that these “Bible men” exemplified the truth of Pecock’s observations. To justify their narrow views, they quoted texts from the Epistles of St. Paul, which seemed, to them, to limit the hope of salvation to those who knew the Scriptures, and understood them as they did themselves. One to which they attached special importance was a passage in Corinthians, translated in Wycliffe’s Bible:—“Soothly, if any man unknoweth, he shall be unknown.”¹ This they interpreted as signifying that if any man did not know, or do his best to know the New Testament, he should be unknown of God. Hence arose the phrase, “known men,”

¹ Wycliffe, it must be remembered, translated from the Vulgate, for the sense is not at all in agreement with the Greek, which reads, *Εἰ δὲ τις ἀγνοεῖ, ἀγνωστέω*. The authorised version gives the true rendering, “But if any man be ignorant, let him be ignorant.”—1 Cor. xiv. 38.

which they used among themselves, and by which they kept up a spirit of exclusiveness. A "known man" was one who knew the Bible,—in other words, one of their own sect. "Is he a known man?" they would ask of their brethren, before having any dealings with a stranger; and only on being assured that he was so, did they feel it safe to have much to do with him.

They also insisted much upon the text, "if our gospel be hid, it is hid to them that are lost." Whoever failed to obtain a clear and just view of the great message of love and mercy, or to look for it where alone it was to be found, must be among those for whom there was no hope; "in whom the god of this world hath blinded the minds of them which believe not, lest the light of the glorious gospel of Christ, who is the image of God, should shine unto them." However common the ignorance, there could be no excuse for it; no help was needed to understand the words, even when they might seem most obscure. It was even sinful to add a commentary, and came under the curse denounced in the Apocalypse: "If any man shall add unto these things, God shall add unto him the plagues that are written in this book."

For the special arguments used by Pecock against their interpretation of these texts, we may refer the reader to the book itself. We are more concerned with his general position, that reason is the true foundation of moral philosophy, with which the authority of Scripture must not interfere. And

that it was possible to magnify Scripture too much, he further shows from the New Testament itself; for the Jews over-magnified *their* Scriptures, and were reproved for it by St. Paul in his Epistle to the Romans. Perhaps even the Fathers of the Christian Church may sometimes have over-estimated the sacred writings; but as the Lollards do not value their authority, Pecock will not waste time in answering objections on that ground. The true deference due to such authority he has discussed in another treatise, entitled *The Just Apprising of Doctouris*.

A much more important objection was, that human reason was liable to err; and that Scripture, being the foundation of Christian faith, deserved to be more highly esteemed. It did not seem to accord with the wisdom and goodness of God, to make us lean on a support that might fail us, where it was highly important for us not to be misled. In answer to this Pecock remarks, that it is important to have knowledge of visible truths through one's eyesight; yet what eyesight has God given to see with that does not sometimes fail? It is important that one should have knowledge of other truths by one's ears; but what sense of hearing has God given that does not sometimes carry false impressions? And though it is most important to know by reason truths beyond the cognisance of the bodily senses, man need not wonder that his power of reasoning is fallible. If we do our best to preserve our bodily senses from error, God will forgive the error we cannot avoid;

and so will He forgive erroneous judgment, if we strive, by careful deliberation and advice of others, to arrive at truth. Besides, Pecock goes on to maintain, though the reasoning faculty itself be fallible, that "doom of reason" which is founded on formal syllogisms will give us certainty, or in other cases, strong probability, according to our knowledge of the premises. It was from hasty and insufficient syllogisms that errors in reasoning arose.

Then, as to Scripture being a worthier guide than reason, that, he shows, is impossible. Scripture, in one sense, is only parchment and ink, neither holier nor better than any other writing "which hath like good ink and is like craftily figured." In another sense it means the truths conveyed by the outward writing; but even in this sense it cannot be the worthier guide as to "moral law of kind," for all it teaches of that law is borrowed out of moral philosophy. The truths of faith, indeed, are grounded in Scripture only; but it by no means follows from this fact that Scripture itself is so important to the true service of God as the judgment of the reason.

Finally, he warns the Lollards that their mode of studying the Bible will not answer. If there were not clerks to expound the Scriptures who had been well trained in logic, moral philosophy, and divinity,—or if the lay party would not attend to their teaching, but trust their own intelligence and lean to texts of the Bible,—he dare well assure them so many opinions would arise, that men would agree

in keeping the service of God "as doggis doon in a market whanne ech of hem terith otheris coot." Each would have his own interpretation of his own favourite texts; and if there were no judge between them, there would never be an end of strife. Already they had seen an example of this in the troubles of Bohemia during the Hussite wars, which caused the destruction of Prague and the devastation of the whole country; evils which made so deep an impression that, in Pecock's time, the people were glad to return to the old faith, and to rebuild in their poverty the churches they had burnt and thrown down. Bohemia might well be a warning to England: a kingdom divided against itself could never stand. And how were divisions to be prevented if every man followed his own view of Scripture? When a dispute arose about doctrine, who was to settle it? Surely it must be carried, after all, to the tribunal of reason. Even if they were to appoint judges to decide it, the judges must use their reason; and who could be better qualified so to act than an educated clergy? Let not the Lollards delude themselves by imagining they could arrive at truth by poring over the Bible alone. They had themselves split up into sects like the Bohemians. Some were called *Doctormongers*, others *Opinion-holders*, and others *Neutrals*. This alone might teach them the need they had of counsel.

Even in seeking advice, however, they must exercise discretion. As one star differeth from another in glory, so does one clerk differ from

another in wisdom. He therefore advises his Lollard brother to be very careful in his selection, giving him these words of caution :—

“And in special be waar that thou not accepte, chose, and take a clerk for to be sufficient to thee into the now seid purpos bi this aloon, that he mai were a pilioun¹ on his heed ; neither bi this, that he is a famose and a plesaunt precher to peple in a pulpit ; neither bi this, that he is a greet and thikke rateler out of textis of Holi Scripture or of Doctouris, in feestis or in other cumpanyingis : for certis experience hath ofte tauzt and mai here teche surely ynouz, that summe werers of piliouns in scole of dyvynyte han scantli be worthi for to be in the same scole a good scoler ; and ful manye of the seconde and thirde soortis appeering ful gloriose to the heering of the lay parti, and also summe of othere maner of clerkis, whanne thei schulden come for to dispute, and examyne, and trie, and juge, in harde doutis of Goddis lawe, were not worthi for to therto unnethis opene her mouth.”

Too much importance, Pecoek thought, was generally attached to preaching, and too little to instruction. Although preaching was valuable in the way of exhortation, it was by no means well adapted for demonstrative reasoning. It was a mistake to suppose that eloquence in preaching, and a great command of texts, were evidence of fitness to give solid instruction ; and inattention to this consideration had been a great cause of heresy in

¹ The hat worn by a doctor of divinity.

England. He wishes the king would take as much pains to free England from heresy as he does to conquer France, and that degrees were never given except to men of proved capacity. Often he had been told, "Thus hath a doctor said in this matter, and thus hath a doctor said in that matter; and thus hath this famous preacher preached, and thus hath that famous preacher preached." "And," he adds, with amusing fervour, "I have answered again thus—Though he, and he, and he, and he have so taught and preached, yet it is not therefore and thereby ever the rather true, but it is untrue, and needs must be untrue, and may be showed and proved undoubtedly to be untrue." Not that Pecoek pretends he himself never made a mistake, or that he is sure he will never make one: on the contrary, he wishes to caution people that all clerks are fallible, even though they wear pilions and preach sermons at Paul's Cross. Nevertheless, if people use their best judgment in the choice of clerical counsellors, they are excused towards God in following their advice when it is erroneous.

The great argument against the hypothesis that men could find the sense of Scripture for themselves was Experience. Men had, as a matter of fact, arrived at different opinions even after studying it with all possible humility, and men who had formed opinions meekly had been known to change them afterwards. Neither did experience show that the good man was necessarily the best expositor; often the wicked clerk was quite as capable as the good.

His capability depended, not upon the morals, but upon the intellect, and a bad man might have a clearer head than a virtuous man. Here, however, the author anticipates an objection. His opponent might say, "That is all very true as regards the natural faculties of men, but you must take into consideration the grace of God, which He will never grant in equal measure to the virtuous and to the wicked." Pecock replies, that so far as experience goes, the power of interpreting Scripture appeared to depend on natural capacity alone; and even if it did not, the gifts of God were bestowed indifferently on bad men and good. Scripture itself showed that the gifts of prophecy and revelation, and the power of working miracles, had not been confined to virtuous men, so there was no reason to expect that good men would possess in greater measure than the wicked the gift of understanding the Bible.

Having thus refuted the two first errors of the Lollards, he has little difficulty in proving the third to be equally against reason and Scripture. The Bible taught that every Christian should be ready to give a reason for the faith that was in him. To hold to a supposed orthodox view in opposition to reason was simply to love darkness rather than light. The men who did so showed that their works were evil, according to the sense of the passage in St. John's Gospel. For the works of men were not the mere outward acts; their faith was a part of their works, as shown by Jesus Himself when He said, "This is

the work of God, *that ye believe* on him whom he hath sent" (John vi. 29). All true belief would bear examination ; the more narrowly it was scrutinised, the more clearly true it would appear. God forbid, therefore, " that any man should so trow and feel that any conclusion of faith ought to be holde for true and for faith, and yet couth be proved by any argument to be untrue and false ; and that any argument could be made against any conclusion of true faith, to which argument it couth not clearly at full be answered." It was a part of the law of Mahomet to stifle inquiry into points of faith ; but when Christians lock themselves up in their own opinions against argument, " certes therein they do foul villainy to Christ's law of faith."

In this wise are the three cardinal errors of the Lollards answered. But when Pecock had proceeded thus far, he thought it necessary to mention a fourth, which had lately come to his notice, more extravagant than any of the former. According to this view, a man who was meek and fulfilled the law of God would understand the Scriptures aright without any teaching but God's ; while, on the other hand, those who transgressed the law of God would never arrive at the true meaning of Scripture, though they exerted all their faculties upon it with the help of others like them. And as in their opinion the bishops and clergy lived in entire disobedience to God's law, it was impossible that any of them could arrive at a true understanding of the Bible. Against this doctrine Pecock again appeals to experience,

declaring that he is able to prove some of the principal men who held it to be themselves men of very evil life. If, therefore, they broke God's laws, and yet maintained they understood the sense of Scripture, it was clear they themselves did not believe it. As to the clergy, they were not in all things pure and perfect; but Pecock could tell from his own experience that they were often unjustly censured by men who, if they understood the motives which influenced them, would often have approved of their conduct.

And now, having cleared the ground, he proceeds to vindicate the lawfulness of the eleven usages which it has been his object to defend. The particular discussion of these points will not generally interest the modern reader so much as his main argument; but we may briefly glance at the list of subjects. First of all he vindicates the use of images in churches, and the practice of going on pilgrimage. Next he defends, even by authority of Scripture, the right of the clergy to hold landed property, and refutes Wycliffe's arguments against endowments; after which he goes on to justify the existence of different grades among the clergy, their right to make statutes and canons in addition to the divine law, the institution of the religious orders, the invocation of saints and priestly intercession, the costliness of ecclesiastical decorations, the ceremonies of the mass and sacraments generally, the taking of oaths, and the lawfulness of war and capital punishments. The mere enumeration

of these topics shows, on the whole, how little change has been brought about by the lapse of time and all its revolutions in the general character of the English mind. A strong objection to superfluity is one of the most striking features of the national character, and a suspicion that what is unnecessary is positively unwholesome is continually provoking to intolerance. No nation is so strongly pervaded at times by a relentless spirit of iconoclasm ; but, on the other hand, no nation has produced minds of such genuine liberality and philosophic breadth of view.

Pecock certainly was one who, in point of liberality, rose far above his contemporaries. It must be owned, indeed, that his defence of the institutions and usages of the Church is not always so sound as his refutation of Lollard doctrines. Thus, in support of the Pope's supremacy, he maintains that Cephas, the Hebrew name of Peter, was not really a Hebrew word, but Greek, signifying *head* ; and for this, with equal inaccuracy, he cites the authority of St. Jerome. And sometimes he indulges in sophistries not due to imperfect scholarship, as in his vindication of the practice of the friars who evaded the rule of St. Francis against handling money by counting it with a stick. Still his argument throughout bears every mark of honesty. He vindicates established usages with the most unwavering faith, and affirms that even scriptural warrant might be found for those most objected to ; not that they were expressly enjoined

in Scripture, but that they were means to aid the fulfilment of what was enjoined.

Pecock's independence of judgment brought upon him the usual reward of single-mindedness. Although he had owed his advancement to leaders of opposite political factions, he fell under the general displeasure both of his own brethren in the hierarchy and of the nobles. Perhaps the aversion with which he was regarded may not have been entirely theological; but though we know not the specific causes from which it arose, there is little difficulty in comprehending it. A man of Pecock's character is precisely the man whom none can tolerate in the days of strife. A strong partisan has always the sympathy of one side; a trimmer may have a certain amount of sympathy on both. But a man who forms entirely independent opinions, and supports truth wherever he finds it most assailed, without considering whom it may serve, or seeking other reward than the satisfaction of his own sense of right, need never expect to stand well with his contemporaries. When the complaint against bishops was loud and general that they neglected preaching, Pecock defended them on the ground that they had higher duties. But he got no thanks for undervaluing an office to which the most popular divines owed all their influence. He especially drew upon himself the odium of the friars, many of whom he stigmatised as *pulpit bawlers*. If in a political discussion he took an equally independent tone, we need not be surprised

that he was disliked by every other member of the council. Certain it is that in the latter part of the year 1457, at a Council held at Westminster, the hatred that had long been cherished burst out in all its bitterness.

“Not one of the temporal lords,” says Mr. Babington, “would speak on the business of the council as long as Pecock was present. Many clamoured aloud for his expulsion. Complaints and rumours proceeded from all sides. He had written, it was said, on profound subjects in the English language. What else but mischief to the ignorant vulgar could be expected from such productions? He had vilipended and rejected the authority of the old doctors, saying that neither their writings nor those of any others were to be received, except in so far as they were agreeable to reason. When passages from their works had been produced against him, he had been known to say, *Pooh! pooh!* He had even made a new creed of his own, and had denied that the Apostles’ Creed was composed by the Apostles! Much more was said. He had written last year a letter to Canning, Lord Mayor of London, who had forwarded it to the king. In that letter, which the king had shown to some of them, there were (they averred) no ambiguous signs of exciting England to a change of faith, and even to an insurrection.”

It may not be insignificant to observe that this occurred just at that period in the beginning of the Wars of the Roses, when there was a temporary lull,

and a hollow reconciliation was about to be patched up between the Duke of York and Margaret of Anjou. So long as the two great parties were at enmity Pecock continued to live in safety. The one point on which they could both agree was the persecution of truth and reason. The divines present at the council demanded of Archbishop Bouchier copies of Pecock's books for examination, and a day was given him to appear at Lambeth and bring them with him. He appeared, and brought nine works, among which was the *Repressor*. Twenty-four doctors were appointed to examine them, and report to the judges. These were the archbishop and three other prelates, among whom was the celebrated Waynflete, of Winchester. Pecock demanded that he should be judged not by them, but by men who were his equals in scholastic disputation. This was refused. The doctors reported that the works contained many heresies. They declared his *Book of Faith* unfit to be read, because he denied the saying of St. Gregory, that "faith has no merit, of whose truth human reason gives proof;" and they condemned the *Repressor* for maintaining that the property of Churchmen was as much their own as that of laymen is theirs. His animadversions upon ranting preachers were also objected to, and a like censure was passed upon another of his positions, which does indeed seem rather questionable, from an orthodox point of view, that a man is not bound to believe *with* the Catholic Church, but only that there is one.

After several examinations he was at last brought up to receive sentence. It was pronounced by the archbishop, who having briefly addressed him as a heretic blinded by the light of his own understanding, and showed that his teaching was against the doctrines of St. Augustine, St. Gregory, and St. Jerome, spoke of the necessity of removing a sickly sheep, and offered him his choice whether he would abjure or be delivered to the secular arm to be burnt. Pecock stood for a few moments motionless. It was a cruel alternative—a still more cruel overthrow of all that he had laboured for. His views were now as perplexing in themselves as in their consequences. The Church whose authority he had defended, disowned the defence he had set up; his teachings had met with a worse reception than Lollardy itself. Disheartened and bewildered, he replied, "I am in a strait betwixt two, and hesitate in despair as to what I shall choose. If I defend my opinions and positions, I must be burned to death; if I do not, I shall be a by-word and a reproach. Yet it is better to incur the taunts of the people than to forsake the law of faith, and to depart after death into hell-fire and the place of torment. I choose, therefore, to make an abjuration, and intend for the future so to live, that no suspicion shall arise against me all the days of my life." These words were followed by a general retractation of all the heretical positions objected to, which were afterwards placed before him again in writing, and abjured at Lambeth. At last, on

Sunday, the 4th December, before an immense multitude at Paul's Cross, he knelt down at the feet of his brother bishops, and made a still more public recantation.

“In the name of the Holy Trinity, Father and Son and Holy Ghost, I, Reynold Pecock, Bishop of Chichester unworthy, of mine own pure and free will, without any man's coercion or dread, confess and acknowledge that I have beforetime, presuming of mine own natural wit, and preferring the judgment of natural reason before the New and the Old Testaments, and the authority and determination of our mother Holy Church, have holden, feeled, and taught otherwise than the Holy Roman and Universal Church teacheth, preacheth, and observeth.” Such was the sad commencement. He went on to recount six or seven errors that had been found in his writings, exhorted his audience not to read his books, and declared his assent that they should be thrown into the flames. A fire was then kindled, and with his own hands he delivered to the executioner three folios and eleven quartos to be burned. As they blazed up he cried out, “My pride and presumption have brought upon me these troubles and reproaches.”

Thus ended this melancholy act, which Mr. Babington calls mean,—applying the adjective to Pecock's conduct, not to that of his oppressors. A similar harsh judgment is pronounced by Pecock's earlier biographer, Lewis. To the intelligence of modern times it would seem that he should mentally

have risen at once to the independence of modern Protestantism, and died a martyr to the sacred principle of Dissent. But dissent was precisely the solution of such difficulties which every one in that day considered intolerable, and which Pecock himself had laboured most assiduously to prevent. To have claimed, or even to have admitted such a right, would have stultified his own teaching quite as much as any abjuration. He himself had maintained without the least misgiving that if other means failed, the Church might enforce the acceptance of her doctrines, even with fire and fagot. He had only endeavoured to show that Church principles were reasonable in themselves, and he found the authorities of the Church most eager to prove the contrary. That which was really strange about the case, and which shows more than anything else the narrowness and the bigotry of the age, was that the Church herself could not recognise her own true defender.¹

Under such circumstances, will any one gauge for us the degree of firmness and tenacity with which the very strongest mind, deprived of all human sympathy, may be expected to hold its own opinion against the world? Where is he that will feel assured he has done no wrong when friends as

¹ So gross were the misrepresentations of Pecock by professed Churchmen, that in the next century Harpsfield actually tells us that Pecock was a Wycliffite, and, moreover, that he positively repudiated four articles of the Apostles' Creed. See *Baronius*, vol. xxix. p. 138. This, I presume, was owing to the daring insinuation that that Creed was not really composed by the Apostles!

well as enemies think he has? It was easy for a clear-headed man, in the retirement of his study, to think he could vanquish error and leave nonsense without a foot to stand on; but when Yorkist and Lancastrian, Churchman and Lollard alike, opposed him, he must have had more than human confidence not to have been somewhat shaken. And that Pecoek was really humbled in his own estimation, for a time at least, we may infer from the shout of exultation raised by his adversaries, than which nothing certainly could be more ignoble. "Thus," wrote Whethamstede, Abbot of St. Alban's, with the turgid eloquence of an enraged pedagogue, "thus that most wretched pastor (and by how much the more wise he was in his own conceit, by so much the more he played the fool, and was the more unsound as he seemed to himself to be more sound) was convicted to be of an unsound opinion. Now he thinks humbly of himself, is humbly wise for himself, and humbly, nay most humbly, confesses that he was mistaken, and that he was more wise than he ought to have been. Thus also that most impious intoxicator, who had imbibed the poison of perfidiousness, that he might pour it out again, and infectiously inform the simple people in the faith, now spewed it out and vomited it up in such a manner, that whilst the sun darts forth a ray, or Mars wears a sword, he shall never dare to drink and swallow it any more. Thus, moreover, that horrible monster, which the kingdom of England now lately produced by a miscarriage, the archi-

episcopal authority reformed for the better, and of a rude and deformed mass made him to be the habitation of the Holy Ghost and the receptacle of better grace."¹

The Archbishop caused Pecock's recantation to be published throughout the province of Canterbury. The University of Oxford went in solemn procession to burn his books at Carfax; and a friar named John Bury wrote, by command of the Primate, a treatise against the conclusions maintained in the *Repressor*. After some months' delay, sentence was at length passed upon him that he should be deprived of his see; but against this he appealed to Rome. It was one thing to yield to the judgment of the Church, another to submit quietly to the injustice of men. He had done all that could be demanded of him, even by the most exacting. If he had erred, he had erred in ignorance, mistaking delusive sophistries for valid reasonings. Against men who had so erred and recanted the Church never meant to be severe; and bulls were received from Rome commanding that his bishopric should be restored to him. But even papal authority was not sufficient to shield him from the malice of his enemies. It was against the law of the land to procure bulls from Rome without the royal licence. True, the Archbishop himself had obtained his see by papal provision, and so had many other bishops; in fact, since the Statute of Provisors was passed, it had remained nearly a dead

¹ Lewis's *Life of Pecock*, pp. 168, 169.

letter, nor could it well be put in force without raising delicate questions between Church and State which both were generally willing to leave undecided. The Archbishop, however, represented to the king that Pecock had surreptitiously obtained bulls of restitution, and a commission was issued to the Bishop of St. Asaph and Dr. Stillington to report what legal steps should be taken in the matter. They seem to have been against taking legal steps at all. They recommended the king to send an ambassador to the Pope, who should set forth the dangerous character of Pecock's heresies, and urge his Holiness to revoke the bull and appoint a bishop of the king's nomination. It is doubtful whether this advice was acted upon; but it was notified to Pecock, with an intimation that if he would resign his bishopric, the king would give him a competent livelihood. It may be presumed that he accepted the offer. The bishopric was soon after given to John Arundel, the king's physician, and Pecock was sent to spend the rest of his days in the Abbey of Thorney, in Cambridgeshire.

The rest of his days, we may hope, were untroubled by further persecution than his compulsory seclusion from the world. The abbot received instructions as to his treatment, which imply a reasonable attention to his comforts. Forty pounds a year were allowed for his maintenance. He was to have a private chamber with a chimney, and a passage leading from it through which he might have sight of an altar, and hear mass without leaving his room.

One attendant was allowed to make his bed and light his fire. His diet was to be at first like one of the brethren of the abbey excused from dining in the hall; afterwards somewhat better, "as his disposition and reasonable appetite should desire." Only his intellectual appetites were to be curbed; he was to have no materials for writing, and for books he must content himself with five,—a breviary, a mass-book, a psalter, a legend, and a Bible.

So ended the public life of Bishop Pecock, and so ends all we know of his history. There have been greater divines in past ages, but hardly one more interesting. He has been compared not unnaturally with the judicious Hooker, who in a later age undertook the very same task of vindicating the system of the Church against Puritan objections. But Pecock's arguments have an interest for us far beyond their argumentative value. For by them we trace the origin and development of that same Puritanism against which both he and Hooker contended, and which many suppose to have been due to the great movement of the sixteenth century. It really arose from the teaching of Wycliffe and the translation of the Bible. It was a popular movement which scorned ecclesiastical authority, appealed to Scripture, despised learning, and insisted very much on preaching; and so strongly had it got rooted in the public mind, that little more than seventy years after Wycliffe's death we find the regular clergy united with their and Wycliffe's old enemies the friars in

extinguishing the protest Pecock made against Wycliffe's principles.

Yet the sense of authority is so strong among Englishmen generally, that the movement had by this time ceased to threaten either social or ecclesiastical order. As the bishops themselves had silenced the appeal to popular argument against Lollard tenets, it was impossible that these could now be regarded with much disfavour; and the new movement seems to have slept on in a tolerably pacific way till after the Reformation. One great consequence of Henry the Eighth's success in imposing his will upon the Church was certainly a loss of general respect for dignitaries who had become for the most part mere creatures of despotism. After his death the Puritan party took advantage of Edward the Sixth's minority to seize the reins of government, and though there was a reaction under Mary, the spirit of rebellion against church ordinances burst out under her successor more vehemently than it had done before. At length, in the following century, it overturned the throne, and set up for a while a new kind of order, both ecclesiastical and civil.

After that a reaction came once more, and, happily for England, Puritanism was deprived for ever of that strong coercive sway. But to this day it has been a potent influence in the public mind, splitting the religious world into sects innumerable, and gradually bringing about results which its first promoters would hardly have admired. Incident-

ally, it has forced on a large toleration. The right of private judgment is now our watchword. But the right is one thing, the capacity to exercise it quite another. No views are persecuted now, however extravagant. But extravagant views abound, among which the individual judgment roams about without aid or guidance, unable to rest with satisfaction in any one of them; and thousands of lives are wasted in the pursuit of phantoms which there is no steady light to dispel. The sense of authority has been so weakened, that to point to the careful decisions of Councils and the persistent belief of the Church is to many like an appeal to ancient prejudices, of no more consequence than the belief in ghosts and witches. We have dashed to the ground the great orb of Faith and broken it into fragments, leaving the material world and all its appearances little better than a mockery; and, like Faust, we hear melodious voices in the air, bewailing the loveliness we have destroyed and bidding us reconstruct it if we can:—

“ Weh ! weh !
Du hast sie zerstört,
Die schöne Welt,
Mit mächtiger Faust ;
Sie stürzt, sie zerfällt !
Ein Halbgott hat sie zerschlagen !
Wir tragen
Die Trümmern ins Nichts hinüber,
Und klagen
Ueber die verlorne Schöne.
Mächtiger
Der Erdensöhne,

Prächtiger
Baue sie wieder,
In deinem Busen baue sie auf!
Neuen Lebenslauf
Beginne,
Mit hellem Sinne,
Und neue Lieder
Tönen darauf!"¹

J. G.

¹ Alas ! alas ! Thou hast destroyed it, the beautiful world, with mighty fist ; it tumbles, it falls to pieces. A demigod hath beaten it to fragments ! We carry the ruins over into nothingness, and bewail the vanished beauty. Mighty one of the sons of earth, build it again more splendid, build it up in thine own bosom. Begin a new career of life with thy clear mind, and let new songs resound over it !

III.

ON THE HISTORICAL ELEMENT IN SHAKESPEARE'S FALSTAFF.

THE character of Sir John Falstaff in Shakespeare's *Henry the Fourth* is apt to strike the uncritical reader as a mere creature of the dramatist's imagination, introduced with no higher aim than amusement and drollery. As a matter of fact, there is no authentic record of such a man having been a companion of Henry v. when Prince of Wales; nor is it easy to imagine that the picture could have had a living counterpart in days when personal courage was so much esteemed, and the honour of knighthood was not an empty phrase. To regard such a character as in any sense historical would therefore seem to be an outrage upon all probability. Some may even be disposed to think it an aspersion upon Shakespeare's genius, as tending to destroy part of the credit due to his wonderful originality.

Nor would any one certainly pretend that our great dramatist transcribed this character out of an old chronicle. The purpose served by the introduction of Sir John Falstaff into the play is clearly an artistic one. Sir John was necessary to set forth the dissolute life of the young prince, and to show the influences by which he was supposed to be led

astray. From this point of view the character may be acknowledged as altogether mythical, and yet the aim of its creation was historical. The poet, in fact, conveys to us through this medium his conception of a revolutionary age, in which society was turned upside down. The throne was filled by an usurper, who, as he dispossessed his predecessor, had good reason to fear being dispossessed himself. The heir-apparent, partly to indulge his animal spirits, and partly, perhaps, to see for himself what was going on in the under-currents of social life, had become a boon companion of tapsters, rogues, vagabonds, and robbers. He has a predetermined scheme of getting all the amusement he can out of unworthy associates, and betraying them at some future day to gain for himself the credit of a reformed character. And the companion to whom he owes most in the way of wit and liveliness is one whose age, social standing, and portliness of body, might have seemed naturally to render him the least fit man of the day to be a teacher of levity and frolic.

For Sir John Falstaff is a real knight, however little he cares for his knightly dignity. He has won his spurs some time or other in youth, and is not deficient in personal courage now. When a boy, he was a page in the household of Thomas Mowbray, Duke of Norfolk—certainly no bad school of chivalry; and, young as he at that time was, he broke Skogan's head at the Courtgate.¹ A lad with

¹ *Henry IV.* Part II. Act iii. Scene 2.

such a beginning is not likely in after years to have shown himself deficient in valour. But he is now old; he is fat; the world is full of changes, and he does not see why he should take matters too seriously. Rest might, perhaps, have been conceded to a man of his years with honour;¹ but he has shown such buoyancy of spirit in the prince's company, that he cannot refuse the commission the prince procures for him on the plea of age. His connection with the heir to the throne has been a continual stimulus to his natural vivacity. It has led him even to sink a few scruples of conscience which, as he cannot help hinting now and then, would have been more regarded but for the influence of Prince Hal's society. But his qualms are only food for merriment to others, and a man with such a natural love of humour cannot bear to appear ridiculous. "What says Monsieur Remorse? What says Sir John Sack-and-Sugar? Jack, how agrees the Devil and thee about thy soul that thou soldest him, on Good Friday last, for a cup of Madeira and a cold capon's leg?" These are the cruel observations that bind him to his course of sensualism and profligacy. Were it not for being ridiculed by men far younger and more empty-headed than himself, he might possibly have shown some tokens of amendment. But such a thing is not to be endured; and he throws himself into the "fast" life of the times, to show, as he can very well do, that

¹ "If you will needs say I am an old man, you should give me rest," says Sir John himself to the Chief-Justice.—*Henry IV.* Part II. Act i. Scene 2.

intellectually, if not physically, he can still keep up with it.

Yet it is clear that he has some slight feeling of religion. In fact, he is a demoralised Puritan or Lollard. The evidences of this are scattered up and down in a way that there is no mistaking. His conversation bespeaks a familiarity with Scripture that we do not find in most of Shakespeare's characters. He finds cant excuses for his immoralities—as that purse-taking is his vocation, and 'tis no sin for a man to labour in his vocation.¹ He considers that as he has more flesh than another man, he cannot help having more frailty; and as in the state of innocency Adam fell, what should poor Jack Falstaff do in the days of villany?² On the other hand, the prince answers his moralising most effectively by an irreverent use of Scripture, as a thing that Falstaff feels like paying him back in his own coin.³ But even in the prince's company he expresses some weak intention of giving up his evil life; and when at last he gives up life altogether, he has impressed Mrs. Quickly with the opinion that he has gone to "Arthur's Bosom."

¹ *Henry IV.* Part I. Act i. Scene 2.

² Act iii. Scene 3.

³ *Falstaff.* But, Hal, I prithee trouble me no more with vanity. I would thou and I knew where a commodity of good names were to be bought! An old lord of the council rated me the other day in the street about you, sir; but I marked him not: and yet he talked very wisely; but I regarded him not: and yet he talked wisely and in the street too.

P. Hen. Thou didst well; for wisdom cries out in the streets and no man regards it.

Fal. O, thou hast damnable iteration, etc.—*Henry IV.* Part I. Act i. Scene 1.

These touches indicated, not obscurely to the audiences which first witnessed the acting of Shakespeare's plays at the Globe Theatre, that Sir John Falstaff was a Lollard. The reign of Henry IV. was precisely the period when the first great fervour of Lollardy, created by the teaching of Wycliffe, had already begun to subside; and it was perfectly natural that the times should exhibit examples of a decayed religion combined with unrestrained licentiousness. But Sir John Falstaff was something more than a merely typical character. The audiences at the Globe recognised him not merely as a Lollard, but as one particular Lollard. Sir John Oldcastle was by tradition reported to have been fat, and Oldcastle was a well-known figure upon the stage at the time when Shakespeare substituted Falstaff in his place.¹ It is, moreover, tolerably well ascertained that the name of the character even in Shakespeare's play was originally Oldcastle and not Falstaff; but, owing to the greatly increased reverence for Lollard martyrs which had been inspired by the reading of Foxe, and the growing Puritanism of the days of Queen Elizabeth, it was altered in order not to give offence. Still, the dramatist was not scrupulously careful to wipe away all traces of the personage first introduced. The prince still, in one place, calls Falstaff "my old lad of the Castle;"² and so completely was the latter

¹ For the evidence of this fact we are indebted to a short treatise by Mr. Halliwell, *On the Character of Sir John Falstaff*. Pickering, 1841.

² Part I. Act I. Scene 2.

identified in popular opinion with his prototype, that the dramatist thought it right to make express distinction between the two in the epilogue to the Second Part of *Henry IV*. "If you be not too much cloyed with fat meat," says the speaker addressing the audience, "our humble author will continue the story with Sir John in it, and make you merry with fair Katherine of France; where, for anything I know, Falstaff shall die of a sweat, unless already he be killed with your hard opinions; for Oldcastle died a martyr, *and this is not the man!*"

It was not until the beginning of Henry v.'s reign that Sir John Oldcastle became particularly notorious; but as he was at the very commencement of that reign a servant of the king, and, we are told, highly esteemed by him for his integrity of character,¹ we may presume that he was really treated as an intimate friend by Henry of Monmouth when he was Prince of Wales.² But in the very first year after Henry became king, complaints were made against him in a convocation at London that he had deliberately instigated Lollard preachers to preach in various places without authority from the diocesans, and in open violation of a constitution passed by the archbishop and his suffragans against such irregular ministrations. He had dis-

¹ "Regi, propter probitatem, carus et acceptus, sed tamen propter hæreticam pravitatem valde suspectus."—Walsingham, ii. 291 (Rolls ed.)

² This seems even more evident from Elmham (p. 31), though he states that Henry had cast him off before he came to the crown, on account of his heresy ("quem iste Rex Henricus, causa opinionis insane a suo famulatu domestico repellebat").

tinctly denied that the bishops in convocation had any power to enact such an ordinance, and he had dogmatically promulgated his own opinions touching the sacrament of the altar, penance, pilgrimages, and the worship of images. Notwithstanding Oldcastle's influence with the new king, which had probably emboldened him thus to fly in the face of ecclesiastical authority, the Archbishop of Canterbury was urged, on behalf of the whole clergy of his province, to proceed against the offender. Before doing so, however, he and his suffragans waited upon the king at Kennington. Henry counselled them to show as much forbearance as possible, and the affair was for some time postponed, while the king used his own personal influence with Oldcastle to induce him to abandon his opposition to the recognised authorities of the Church. But at last the king confessed that he had laboured in vain. Oldcastle was obdurate. With the king's consent a citation was issued against him, but he refused to be served with it or to allow the messenger who brought it to come within his castle. It was accordingly posted on the doors of Rochester Cathedral. Oldcastle declined to obey the summons, and being excommunicated as contumacious, he was apprehended and lodged in the Tower. On being again brought before a spiritual tribunal, he refused an offer of absolution by the archbishop, read a confession of faith drawn up by himself, touching a few of the cardinal doctrines of Christianity, and refused to be questioned further. At a

second sitting of the tribunal, however, he made a full statement of his opinions, among other things repudiating entirely the authority of Pope and bishops, and declaring them to be antichrist. In the end he was condemned as a heretic and recommitted to the Tower, from which he managed to make his escape towards Wales. Very soon afterwards there was a tumultuous assemblage by night in St. Giles's Fields of men from different parts of England, who were said to have been instigated by him to seize the king and his brothers, and make Oldcastle regent. But he himself lay in concealment for nearly four years afterwards, when he was at length captured by Lord Powis and brought before his peers in Parliament. Sentence of death was passed upon him, and executed in a manner peculiarly barbarous. He was suspended from a gallows by an iron chain, a fire was kindled beneath him, and he was burnt to death.

Such was, in brief, the career of Sir John Oldcastle, who by right of his wife was entitled to be called Lord Cobham, but who was more familiarly remembered by his family surname. The general impression of his character which we derive even from the account given of him in Walsingham, is that of an indiscreet but upright disciple of Wycliffe, who brought upon himself quite unnecessary martyrdom by defying the constituted authorities both in Church and State. Of the degree to which he was fairly responsible for the ill-advised gathering in St. Giles's it is impossible to form anything like

a trustworthy opinion ; but the monkish historian's own testimony to his general probity may warrant us in believing that if he really promoted such a movement, it was from no mere political disaffection towards a king by whom he was personally esteemed. Indeed, the fact of his staying away from the rising himself is alone a considerable presumption in his favour. But whatever may have been the merits or demerits of his conduct, he left behind him a reputation which showed that he was as little an object of popular sympathy in his own day, or for a long time after, as Guy Fawkes has been in later times. After-generations did not burn him in effigy, but they laughed at his bloated figure upon the stage.

Nevertheless, there was probably at all times a small section of the community to whom the memory of Oldcastle was dear as that of a martyr for religion, and after the Reformation they were encouraged to speak more freely their sympathy with a man who had proclaimed so openly his contempt for popes and bishops. John Foxe, the Martyrologist, enrolled him in his *Book of Martyrs*, and so great was the popularity of that work, that it was esteemed a sign of popish sympathies to speak of it in terms of disparagement. We hardly need any other explanation of the reasons which induced Shakespeare to get rid of the name of Oldcastle in his play. The Puritan party had grown strong in the time of Archbishop Grindal ; they regarded episcopal government itself as but a relic of the evil system of Popery ; and

when Whitgift was promoted to the archbishopric of Canterbury, he had much difficulty in persuading Lord Treasurer Burleigh to allow him to enforce ecclesiastical discipline at all.¹

But having struck out the name of Oldcastle from his play,² why did the dramatist insert the name of Falstaff? This name was but a very slight modification of that of Sir John Fastolf, a notable warrior of the days of Henry VI., who, far from being old in the reign of Henry IV., just begins to be noticed in history in the year of that king's death. Indeed, Shakespeare himself has introduced this true historic character in the First Part of *King Henry VI.*, although he had already made Falstaff die of a sweat in the beginning of Henry V.'s reign. Was the dramatist guilty of a wilful anachronism, or was the slight perversion of the name intended to mark the distinction between a fictitious character and a true one? The latter supposition would seem to recommend itself, yet it is scarcely borne out by

¹ The controversies of those days led to the composition of Hooker's celebrated work on Ecclesiastical Polity, the first four books of which were published in 1594. The first edition of Shakespeare's First Part of *Henry IV.* appeared four years afterwards, in 1598.

² Mr. Halliwell gives us pretty tolerable evidence that the play continued to be acted with the name of Oldcastle for some time after Shakespeare had made the change; as, for example, a passage in "Amends for Ladies," a play of Nathaniel Field, published in 1639, and which, according to Mr. Collier, could not have been written before 1611, Falstaff's description of honour is attributed by one speaker to Sir John Oldcastle:—

"I do heare

Your lordship this faire morning is to fight,
And for your honor. Did you never see
The play where the fat knight, hight Oldcastle,
Did tell you truely what this honor was?"

facts. The First Part of *Henry VI.* made its original appearance in Shakespeare's collected works seven years after the author's death;¹ and not only in that first edition, but also in the second folio of 1632, the character of Henry VI.'s time is given as "Falstaffe," the same spelling precisely as the character in *Henry IV.* There cannot, therefore, be a reasonable doubt that Shakespeare in this case committed an intentional anachronism, and that finding it necessary to suppress the name of Oldcastle, he was obliged to make use of Sir John Fastolf as a makeshift—the variation in the name being really nothing greater than the unsettled orthography of that time continually sanctioned.

If, then, Falstaff was really meant for Fastolf—if the character in *Henry IV.* was really intended to represent a warrior of Henry VI.'s time—we must next inquire what were the points of resemblance between the historic veteran and the fat knight upon the stage. Was the old soldier in history a fat man or a glutton? Was he a coward, or careless of military glory? Was he a jester and buffoon? Or was he a man of graceless, disreputable life? To some of these questions I cannot give an answer. To others, I can most positively answer, No. Sir John Fastolf was a soldier of undoubted bravery. He was also a man of great ability as an adminis-

¹ I dismiss altogether the hypothesis which some have advanced, that the First Part of *Henry VI.* was not really Shakespeare's. So far as internal evidence goes, if in ability it be not equal to Shakespeare's best, it is too great for any other writer. For the rest, the publishers of the first folio were in a better position to judge than we can be.

trator, both in war and peace. He was certainly not much of a jester; at least we possess a considerable number of his letters, and not a touch of humour appears in them—except bad humour, of which he had at times a pretty tolerable supply. Altogether, we must admit that at first sight there seems remarkably little to justify the employment of his name instead of Oldcastle's.

Yet it is clear that Sir John Fastolf did not live on good terms with his own generation; so that, like Oldcastle, he may have left an unmerited bad name behind him. Although no coward, it is true that he was once accused of cowardice, and the accusation must have galled him in the most tender point. Although not witty himself, he may have been just so far like the hero of the stage as to be the cause of wit in other men; for we have instances in the Paston Letters of his contemporaries using sarcastic expressions about him, as well as sometimes complaining of him seriously, and at other times abusing him as a traitor and a public enemy. At one time he himself writes confidentially to John Paston to inform him of the names of certain gentlemen who had used scornful language about him at a dinner in Norwich. At another time one of his own servants speaks of his vindictiveness and cruelty as notorious. I believe, however, for my part, he was often abused for his good qualities as well as for his bad ones; for he in vain attempted to remonstrate against the wretched maladministration which lost England all the territory she had acquired in France

except the town of Calais. Instead of being thanked for his counsels in this matter, his advice was neglected by his sovereign, and the populace actually attributed to him the calamities he had done his utmost to avert.¹

To aggravate his unpopularity, he was, like Oldcastle, a Lollard. This fact has been altogether unsuspected by those who have hitherto written about him. The evidence of it is merely one little expression that he uses in his will; but that is in itself sufficient. The document it has been my lot to edit for the first time from an original corrected draft. The passage to which I refer, besides having been crossed through and cancelled by the testator, or at least under his direction, has been since unfortunately mutilated; but still the sense is unmistakable. The words as they stand in the draft are these: "Seynt Poule the Appostyll saithe, he that is ignorant . . . God Almighty shall hym not knowyn to hise savacion."² This is an allusion to a text (1 Cor. xiv. 38) which, as I have pointed out above,³ was very much in use among the Lollards, and was considered by them to imply that if any man was ignorant of the gospel, he should be unknown to God. The passage as it stands in our modern Bibles does not justify such an interpretation, nor does the original Greek give any warrant for it; but Wycliffe translated it from the Vulgate, where the words are—"Si quis autem ignorat ignorabitur."

¹ Paston Letters (edit. 1872), vol. i. pp. 132, 300, 317, 389.

² *Ibid.* p. 458.

³ See page 31.

Here, then, we have one point in common between Fastolf and Oldcastle to explain to us why Shakespeare should have substituted the one for the other. It is evident that tradition had preserved a fact of which we find no trace in written chronicles, and that the veteran had fallen into some degree of contempt with posterity for belonging to an unpopular school. It seems also to have been remembered by tradition that Fastolf was some way or other connected with a certain Boar's Head Tavern; for as a matter of fact we find by the Paston Letters that he was the owner of a house of that name, although the locality in which it was situated was not Eastcheap, as Shakespeare makes it, but in Southwark.¹ Other traits of the historic Fastolf are, perhaps, at this distance of time not so easily discernible in the play, but we have still one or two to show the reader, which it will be best that we should mention in connection with the briefest possible sketch of the hero's life.

Sir John Fastolf was the son of one John Fastolf, described in contemporary documents as a mariner, who, however, was of an ancient family, and was lord of the manors of Caister by Yarmouth and of Reedham in Norfolk. His mother's name was Mary, daughter of Nicholas Park. At the time of her marriage with John Fastolf she was the widow of Sir Richard Mortimer, of Attleburgh. Sir John was born at Caister about the year 1378—perhaps a

¹ Paston Letters, vol. i. p. 431. Elsewhere we have the Buck Head, p. 454.

little earlier. In his old age he built a castle at the place of his birth, of which the ruins are at this day highly picturesque and interesting. Early in life he lost his father, and, as most of his biographers have told us, following Fuller, he became the ward of John, Duke of Bedford, third son of Henry iv. But this is evidently a mistake, and a very absurd one, arising from confusion between his boyhood and his after-life. By the time Henry iv. ascended the throne, Sir John Fastolf must have been nearly out of wardship, while Prince John, afterwards Duke of Bedford, was only ten years old; so that, setting aside considerations of rank, the Duke of Bedford might have been Fastolf's ward, rather than Fastolf his. Fastolf's real guardian, I have no doubt whatever, was precisely that nobleman in whose household Shakespeare tells us that *Falstaff* passed his boyhood, namely, Thomas Mowbray, Duke of Norfolk. Of this, it is true, I can produce no direct evidence from contemporary mss.; but I am quite sure that such evidence did exist in the middle of the last century. For the fact I have just mentioned was communicated by Blomefield, the county historian of Norfolk, to Oldys, who wrote the article on Sir John Fastolf in the first edition of the *Biographia Britannica*, in a letter written on the 29th September 1749; and it is well known that Blomefield had access to an immense mass of mss., which have since been dispersed, relating to Norfolk worthies and Norfolk county history. We have, therefore, excellent authority for the state-

ment that Mowbray, Duke of Norfolk, was guardian to the real Fastolf, just as he is represented to have been to the dramatic Falstaff. Indeed, even if the general accuracy of Blomefield were much more open to suspicion, we could hardly suppose that such an inquirer was biassed by any wish to vindicate the truth of Shakespeare; for the great dramatist was by no means esteemed in those days so highly as he is at present, and least of all did men think of turning to his plays for information upon points of history.¹

Some years after he had passed out of pupillage, Fastolf entered the service of Prince Thomas of Lancaster, afterwards Duke of Clarence, and went with him over to Ireland, when he was appointed deputy to his father, King Henry iv. He was with him in that country during the years 1405 and 1406. In the following year Prince Thomas returned to England, but in 1408 he was again in Ireland, where Fastolf must have again attended him; for it appears that the latter, on the 13th January 1409, married in Ireland the Lady Milicent, widow of Sir Stephen Scrope, the lord deputy, who had died a year before at Tristel Dermot. By this marriage he came into possession of Scrope's large estates in Wiltshire and in Yorkshire, which he continued to enjoy to the end of a long life, greatly to the prejudice of Scrope's son and heir,

¹ It is curious that Oldys, though he refers to Blomefield's testimony in his article, tries to undervalue it as much as possible as a confirmation of Shakespeare; so intent was he on proving that the character in the drama had no relation whatever to the Sir John Fastolf of history!

whose rights were at that time bargained away by his mother. Lady Milicent, however, was more careful of her own interest, and got her husband to bind himself to allow her £100 a year as pin-money, which sum she continued to receive for thirty-five years after. The last payment was in the twenty-fourth year of Henry VI. (1446); in which year, we may presume, she died.

The first notice we have of Fastolf's employment in France is in the year 1413, when he received a grant of the Castle of Veires, in Gascony.¹ In 1415 he was retained by indenture to serve King Henry V. in his first expedition against France, with ten men-at-arms and thirty archers.² In the same year he distinguished himself greatly in Normandy, and was present at the battle of Agincourt. At this time the honour of knighthood was conferred upon him, and the lordship of Frileuse, near Harfleur, was granted to him for his services.³ In Henry's second French campaign he bore an active part in the capture of Caen and a number of other towns and fortresses. In 1418 he was at the siege of Rouen. He was also made governor of Condé Moreau. In the same year, too, he had orders to seize the castle and demesne of Bec Crespin, held by Jaques d'Auricher and others against the English; and on his successful accomplishment of the exploit he had those lands granted to him in special tail to the value of 2000 crowns. During the next twenty

¹ See list of unedited documents in Rymer, vol. xvii.

² Rymer, vol. ix. p. 270.

³ *Ibid.* p. 329.

years we meet with his name continually in all the leading actions of the French war. He was at the sieges of Montereau in 1420, of Meaulx in 1421, and of Compiègne in 1424. In 1421 he was appointed the king's deputy in Normandy and governor of Anjou and Maine. After the death of Henry v. he was appointed grand-master of the Regent Bedford's household, and served with him in the recapture of Meulent from the French. In 1424 he was made a Knight-Banneret at the battle of Verneuil, where he shared with Lord Willoughby the honour of taking the Duke of Alençon prisoner. And in further recognition of his distinguished services he was elected with special honours a Knight of the Garter, and created a baron in France, taking the title of Silly-Guillem, from a fortress that he had won with peculiar bravery.

But the exploit in which he rendered the most important service at a very critical time was in the memorable "Battle of Herrings." The English were pressing the siege of Orleans, but their supply of provisions was running short when, the season being Lent, Sir John Fastolf was despatched to Paris to bring up a convoy of herrings. The French king, however, got wind of his intention, and sent a force under the Count of Clermont to intercept the party on the way. Sir John being informed of the enemy's approach in greatly superior numbers, drew up his men behind the commissariat wagons, who from that position rained such a deadly shower of arrows upon the attacking force, that they were

soon defeated with great slaughter ; so that Fastolf was able to bring the provisions in safety to the English camp.

Very shortly after this, however, occurred the incident which was thought to be an imputation upon his bravery. Joan of Arc had appeared upon the scene and compelled the English to raise the siege of Orleans. The French, elated with their success, then went and besieged Beaugenci, a few leagues further down the Loire. The garrison contrived to send a messenger to the great Lord Talbot, afterwards Earl of Shrewsbury, who promised speedy succours. But the French were now animated by an enthusiasm that carried all before it. Jargeau on the one side of Orleans, and Meung on the other, fell into their hands ; and the English were greatly dispirited. The succours for the relief of Beaugenci consisted of two companies, the one led by Talbot himself, the other by Sir John Fastolf ; but the latter protested against the attempt beforehand, as a defeat at that juncture would endanger all the English conquests in France. As it happened, Beaugenci capitulated in despair while the succours were almost at its gates, and these, being no longer needed, took the road back towards Paris. By counsel of Joan of Arc a party was sent after them, which was largely reinforced by the inhabitants of the country. They overtook the English near Patay. The latter, hearing that they were pursued, had taken up a position between two strong hedges, and sent their artillery and commis-

sariat a little before them on the road to Paris. But the rear had not yet come up when Talbot, thinking the main position secure, went down on foot with five hundred picked archers to keep the passage against the enemy.

The French came rapidly up, and Talbot and his little band had to bear the brunt of the attack; when, Fastolf riding towards the vanguard, the object of his movement was mistaken, and the vanguard took to flight. The battle was then irrecoverably lost, and Fastolf was advised by those about him to take heed to his own safety. But this for a long time he steadily refused to do, determined, in spite of remonstrance, at all hazards, to return to lead his men, if possible, against the enemy. It was, however, to no purpose; the English fled from Joan of Arc with superstitious fear; Lord Talbot was taken prisoner and his men cut to pieces; and Fastolf, finding resistance useless, was at last obliged to fly. It is testified, however, by his attendant, Jean de Wavrin, who was with him at the time, that it was only by the earnest dissuasions of the Bastard of Thiau and others who were about him, that he was prevented from rushing back into the battle; for he declared he would rather die or be taken than fly before the enemy.¹

Did Fastolf, when he was afterwards called to justify his conduct on this occasion, tell his judges, in the words of that other personage in the drama, that the better part of valour was discretion? If

¹ *Jean de Wavrin*, ed. Dupont, vol. i. pp. 279-294.

not, he might have told them with perfect truth, and scorned the sneers of cavillers, that there were occasions when discretion was a more important thing in war than even valour itself. Lord Talbot certainly had himself to thank for having been made prisoner. He wilfully left a strong position, and detached himself from the main body of the army, thinking, with a heedless inconsiderate bravery, to stop the progress of an enemy flushed with success and greatly superior in numbers. Fastolf had remonstrated against the whole policy of the expedition, but his remonstrances were overruled, and now he was simply unable to do anything for his fellow-leader, unless he would absolutely have thrown away his life to no purpose whatsoever, and hopelessly crippled the power of the English to make any further resistance to their enemies. There is little doubt that by not doing this he offended Talbot deeply, and there is even some foundation for the story related, but with much circumstantial inaccuracy, in Shakespeare's *Henry VI.*¹ that he was deprived of the Garter for this alleged poltroonery. The fact is, that on the first news of the occurrence the Regent Bedford did take from him the insignia of the Order; but on a full investigation of the circumstances they were honourably returned to him. This is distinctly stated by Monstrelet, the only writer who tells us of his disgrace. No record of his deprivation was allowed to appear in the Black Book of the Order, but he continued to attend the feasts of St. George and the Chapters of

¹ *Henry VI.* Part I. Act iv. Scene 1.

the Garter, until within a few years of his death he was excused on the ground of his great age and infirmity.¹

Certainly the imputation on his character must soon have been cleared before very competent judges. He was appointed lieutenant of Caen the very next year, and from that time forward continued to receive every proof of confidence, not only from the Regent Bedford, under whom he first served, but also from the Duke of York, who succeeded him. He continued to serve in France for eleven years after the battle of Patay, when, being over sixty years of age, he returned to England, and spent the rest of his days in his native country.²

Still he was not a popular hero, and the scandal did not wholly die. There were, besides, reflections on his patriotism as ill deserved as those on his valour; and if he was not accused of having "misused the king's press damnably," it was nevertheless rumoured that he had caused the loss of Normandy by reducing the strength of the English garrisons. This, in fact, had been done by others against his earnest protest; but that many imputed it to him appears by an incident in Jack Cade's rebellion, when a servant of Fastolf's being taken prisoner by the rebels was brought before the captain, and only escaped being put to death on his

¹ Anstis' *Register of the Garter*, vol. ii. *passim*, and preface, p. v.

² For more minute details of Fastolf's life, the reader is referred to the article in the *Biographia Britannica* (to which important additions were made in Kippis's edition), Dawson Turner's *Sketch of the History of Caister Castle*, and Mr. Poulett Scrope's *History of Castle Combe*.

master's account by the intercession of one of Cade's chief supporters. The man was led through the rebel camp, preceded by a herald, who proclaimed with four *Oyez* that he had been sent thither as a spy by "the greatest traitor that was in England or in France, one Sir John Fastolf, knight, the which minished all the garrisons of Normandy, and Mauns and Maine, the which was the cause of the lesyng of all the king's title and right of inheritance that he had beyond sea."¹ Charges like this account for much of the old knight's ill humour. He wrote treatises in his own vindication, pointing out the causes to which the loss of France was really due. But he could never wholly silence scandal.

And now I hope it has been sufficiently shown that the Falstaff of Shakespeare, much as it undoubtedly owed to the rich imagination and incomparable wit of the dramatist, was an embodiment of traditions respecting two distinct historical personages—traditions largely tinged with prejudice, but still not unworthy to be considered, as reflecting the opinions of the age, and preserving, at the same time, some little details of genuine historic fact which, if they had not been stereotyped by genius, would by this time have perished irrecoverably. The inquiry, I trust, will not be thought unprofitable by those who wish to estimate aright the value of our great dramatist as an exponent of English history.

J. G.

¹ Paston Letters, vol. i. pp. 132, 133.

IV.

NEGOTIATIONS WITH SPAIN IN THE FIFTEENTH CENTURY—KATHARINE OF ARRAGON'S FIRST MARRIAGE.¹

EVERYBODY who cares about English history ought to be very grateful to Sir John Romilly for the pains he is taking to bring the materials within reach of all who are disposed to make the right use of them. To some of the volumes which are in the course of publication under his direction, it will perhaps be objected that they contain much that is of no interest and of no value. But such objections proceed from persons who are either without experience in the kind of work, or without the faculty of drawing just conclusions from such experience as they have. Let any one who is seriously desirous to make out a doubtful passage in history, ask to see a document from which he expects to get some light; and let him receive in reply, not a copy of the document itself, but a set of extracts containing only so much of it as is judged to be of any value. He will feel at once that another man's judgment

¹ *Calendar of Letters, Despatches, and State Papers, relating to the Negotiations between England and Spain, preserved in the Archives of Simancas and elsewhere.* Vol. I. Henry VII. 1485-1509. Edited by G. A. Bergenroth. Published by authority of the Lords Commissioners of H.M. Treasury, under the direction of the Master of the Rolls. London: Longman and Co. 1862.

cannot be trusted in such a matter, and will want to see the rest. Now, one man's case is the case of every man in similar circumstances ; and therefore, where original documents are not too bulky for publication, let them by all means be printed entire ; and where they are, let us have, not specimens and selections, but descriptive catalogues — complete, exact, and full,—with access to the originals as easy as it can be made. The only process which can be trusted for separating the ore from the refuse is to pass the whole lump through the mind of a man of genius. But men of genius are few, and scattered about nobody knows where, and not to be commanded. Their minds will act upon the rude mass if they are brought into contact with it ; but if the mind is in the country and the matter in the Record Office, there will be small chance of meeting—especially if there be no means of knowing that it is there.

Of the plan, form, and conditions of this undertaking it is not necessary to speak : they are sufficiently well known ; as well as the general character of the many works, hitherto existing only in manuscript, which have already appeared. These differ, of course, very much, both in intrinsic value and in the skill of the several editors. But there is probably none among them, the possession of which, in a fair and convenient volume, by his own fireside, has not been of great service to some industrious student. And as they can all be obtained separately for a moderate price, we may look forward to a time

when every student will be able to provide himself with what he wants for his own particular purposes; and many minds qualified in other respects for the business, but debarred hitherto by mere necessities of time and place, will be free to work upon the materials thus brought within their reach.

The enormous masses of original correspondence preserved in public archives, which are the real and authentic records of past transactions, cannot, of course, be dealt with in this way. But though they cannot be printed, they may be calendared; and we feel no doubt that the series of *Calendars of State Papers* now in progress will be found not less serviceable to historical inquiry than the printed *Chronicles and Memorials*. Of course they must be used as directories to the originals, not as substitutes for them. But the convenience of having your directory always at your elbow, instead of having to seek it at a public office within office hours, may be appreciated without a trial. For many things, indeed, they will be themselves sufficient: dates, for instance, and names. Having once seen the originals, and ascertained for yourself that the calendar is correct in such particulars as it gives, you may safely use it ever after to refresh your memory in those particulars; and the saving of time will be considerable. And, indeed—although we hope they will not be used as helps for the invention, and vouchers for the authentication of historical romances,—the abstracts themselves, if well and faithfully executed, and properly used,

may, even without the originals, be made to yield a great deal of genuine history to a careful student. By any one who is tolerably familiar with what was previously known of the reign of Henry VII.—but remember that this is a provision which cannot be dispensed with,—the *Calendar of State Papers* relating to his negotiations with Spain may be read straight through without any difficulty in following the story, and will be found to throw a great deal of light into the obscurer passages of that reign. Its use in this way we shall try presently to exhibit in a real example on a large scale, which will be more satisfactory than any criticism. But we must first say a few words about the work itself, which is in many ways remarkable.

M. Bergenroth, being a man of an exploring and adventurous spirit, took a fancy, on his own account, to explore the archives of Simancas; in the hope, we believe, of disinterring the buried secrets of the English Tudors; and had already commenced his work when Sir John Romilly took advantage of the circumstance to engage him as an ally in his own great undertaking. If it was by accident, never was accident more fortunate; for, besides an amount of diligence, itself uncommon, and a spirit unconquerable by difficulties and hardships (his conditions, as to fire, food, and lodging, seem to have been harder than those of a siege in winter), he brought to the task a faculty, unsuspected apparently by himself, which enabled him to perform a service such as very few men *could* have performed in any

circumstances with any amount of diligence. A considerable portion of the correspondence was in cipher, and the key was not to be found. To a man who "had never in his life occupied himself with endeavouring to decipher any despatch," a keyless cipher might well seem a lock safe enough to satisfy Mr. Hobbs. Nevertheless, M. Bergenroth succeeded in making keys to open all these locks, and drew forth the contents in intelligible language, giving a sense so natural, and so free from difficulties and inconsistencies, that it is impossible to read the correspondence carefully and consecutively without being satisfied of its substantial correctness. The particulars are so many, and so complicated with each other, that no ingenuity could have made them fit with a false interpretation. And, to remove all doubt, it so happened that upon a fresh search made *after* M. Bergenroth had "nearly completed all his keys," some of the original keys were discovered—one complete, and fragments of two others—which fully confirmed his conjectures.

Exact copies of all these ciphered despatches (along, we presume, with copies *in extenso* of all other papers described in the *Calendar*, of which the originals are not accessible in England) have been deposited in the Record Office, and will, no doubt, be scrutinised by the expert. We shall confine ourselves to the *Calendar* itself; in which are entered, in strict chronological order, all the MSS. at Simancas relating to the negotiations with England during the reign of Henry VII., many from other

archives, and some also from printed collections, where they serve to fill up blanks in the correspondence, and throw light on what goes before and after. Distinct references are given to the places where the originals remain ; addresses, indorsements, and particulars of that kind are carefully inserted ; and the contents are indicated by abstracts, full enough to be easily understood, with translations of the more important passages ; the accuracy of which we shall take for granted. The whole seems to be done with very good judgment ; and, indeed, we find the general structure and arrangement of the volume so sound and serviceable, that we hope it will be taken, in all points but one, as a model for other calendars of similar documents.

The one part which we cannot recommend for imitation is the historical commentary upon the contents of the volume, which occupies the greater part of the introduction, and which, even if it were better in its kind than it is, would in our opinion be better away. These publications profess to give us, not history, but the *materials for history*, or information where they are to be found. Every thing that helps to authenticate, elucidate, or correct the documents themselves—all particulars, therefore, concerning their history, their condition, their authorship, etc.—are welcome ; and no one is so likely as the compiler of the *Calendar* to be able to supply such information. But we should doubt the expediency of assigning to him the further task of reading a lecture on the history of the events to

which they relate, even if we thought it expedient that such a lecture should be made part of the work. The tastes and faculties which make a good explorer, collector, decipherer, arranger, elucidator, abstracter, and editor of large bundles of miscellaneous correspondence, are not the tastes and faculties which make a good interpreter of their historical significance; and even where the same man has the requisite qualifications for both offices, the time and attention required by each will interfere with that required by the other. In this case, if we had judged M. Bergenroth by the historical part of his introduction, we should have rated him much below his real merits; and if we were now to enter into a discussion of it, we should use up our space in exposing what we conceive to be oversights and errors. But we prefer to pass his speculations by, and endeavour to give some notion of the value of his work.

Now, the best way to exhibit the true value of a collection like this would be to compare it with the history of the time as we now have it, and show in what particulars it confirms what was doubtful, corrects what was erroneous, supplies what was wanting, and explains what was obscure. And though we cannot, within the limits assigned us, attempt to do this for the whole, we may do it for a part. The chief business of the Spanish ambassador in England—of whose correspondence so large a portion, including its most secret passages, is thus unexpectedly laid upon the table—was to negotiate the treaties of marriage between the Prin-

cess Katharine and the Princes Arthur and Henry; though (the promise of the marriage, and the apprehension of a breach, being used on both sides as an engine for the accomplishment of other purposes) it mixes itself up directly or indirectly with all the business of the reign. From the abstracts of the correspondence before us, taken in connection with the other business of the time, we propose to collect the history of the first of these negotiations, and to present it in a continuous narrative. For the business of the time we shall refer, as our principal authority, to Bacon's *History of Henry VII.* as set forth in the last edition of his works, in which the editor professes to have pointed out in footnotes all the inaccuracies he has been able to detect, and supplied such omissions as seemed to be material; and which, taking the original and the notes together, contains, we believe, the latest, the completest, and the most accurate account of that reign now extant. What parts of our narrative come from this history thus corrected, and what from the *Calendar*, will appear by the references; and the reader will thus be enabled to form some estimate of the value of this new contribution. It may be worth while, however, to warn him beforehand that its tendency in all substantial matters is to confirm, not to upset, the received interpretation. Of Henry, as seen through the eyes of Dr. de Puebla (to whom, we presume, he showed about as much of himself as he thought expedient), we see a great deal, and that, too, in many moods, and under many trials;

but he is always, in every feature and every gesture, the same man whom we seemed to know so well from Bacon's description. Of his relations with foreign powers we learn many new particulars, but nothing at variance with the general character of his foreign policy as previously expounded. The story of Perkin Warbeck remains as Bacon left it: mention of him occurs from time to time; but the dates and particulars all fit into our received narrative, and what was doubtful and obscure before remains doubtful and obscure still. Of home affairs the correspondence tells us hardly anything. We see that Henry was his own prime minister; that he had his principal counsellors always about him, and held "great councils" not unfrequently; that his government was strong, and his coffers well filled. But of the tragic incidents of the time—such as the executions of his mother's brother-in-law and the Earl of Warwick, the rebellion in Cornwall, and the wars with Scotland—we hear either nothing at all, or only enough to fix the dates; while of proceedings in Parliament, which we should have expected a foreign ambassador to watch carefully and report continually, there is so little said, that, though we believe there are one or two passages from which it might be inferred that a Parliament did at that time form part of the Constitution of England, we doubt whether it could be proved out of De Puebla's correspondence that any Parliament met during the period over which it ranges. Nevertheless, in the scarcity of original materials

belonging to this reign, it is something to be assured that the old story is true. And with this warning to moderate expectation, we proceed to our history.

Of the negotiation of the marriage between Prince Arthur and the Princess Katharine, Bacon's account, though short and without details, requires only the alteration of a word to make it complete in all that is material.

"This marriage" [he says] "was almost seven years in treaty, which was in part caused by the tender years of the marriage-couple; especially of the Prince. But the true reason was that these two princes, being princes of great policy and profound judgment, stood a great while looking one upon another's fortunes, how they would go; knowing well that in the meantime the very treaty itself gave abroad in the world a reputation of a strait conjunction and amity between them, which served on both sides to many purposes that their several affairs required, and yet they continued still free. But in the end, when the fortunes of both the princes did grow every day more and more prosperous and assured, and that looking all about them they saw no better conditions, they shut it up."

Substitute "fourteen" for "seven," and this account of the matter, though it may be abundantly illustrated, will hardly be either corrected or improved by the most particular narrative of the successive phases of the negotiation as they appear in this correspondence. Bacon was not aware that the terms of the marriage had been discussed, arranged,

and by one of the parties even ratified, as early as March 1489; and he took the renewal of the suspended negotiation at the end of 1494 for the commencement of it. But the fact that it ranged over a period so much longer than he supposed, and that it was so suspended and renewed, is in perfect accordance with his explanatory comment, and affords additional and conclusive evidence of its accuracy.

Prince Arthur was born on the 22d of September 1486. During the greater part of the following year Henry was engaged in the suppression of a formidable rebellion; a pretender to the Crown having sprung up in the person of a young man, announced as the real son of the late Duke of Clarence, and supported in his pretension by some of the most considerable persons in England, by the Lady Margaret in Flanders—not without the countenance, it was to be presumed, of the King of the Romans and the Archduke—and by all Ireland. After extinguishing this rebellion by the decisive victory of Stokefield (in which all the principal English leaders were killed, and the pretender himself made prisoner), and after some time spent in quenching the embers that still smouldered in the northern counties, Henry returned towards London in the autumn of 1487 with all the reputation due to complete success. He was met on the way by two embassies, both relating to a war newly broken out between the King of France and the Duke of

Brittany. One was from the French King, entreating him not to interfere; the other from the Duke, asking for aid.

The avowed ground of quarrel on the French king's part was the protection and succour of rebels—a cause in which Henry could very well sympathise with him; but his real object was known to be the re-annexation of Brittany to France—a thing which Henry was much interested in preventing, as that which would materially increase the power of a dangerous, unfriendly, and aggressive neighbour; and this at a time when he could not rely on the friendship of any of his other next neighbours—Flanders and Ireland having just shown themselves actively hostile, and the Scotch and English people (though their kings were now friendly disposed) being at all times ready to quarrel. But Henry had reason at that time to think that the re-annexation of Brittany would prove too much for the young king. The Duke of Orleans, first prince of the blood and second person in France, was himself one of the protected rebels, and had the chief direction of the Duke of Brittany's affairs: Maximilian, King of the Romans, was an accepted suitor for the hand of his daughter and heiress: and an attempt to take Nantes, the capital city, had, after a six weeks' siege, been abandoned a month or two before.¹ It appeared, therefore, that the Duke was not in danger of being overwhelmed by a sudden inva-

¹ Bacon, note 2, p. 70.

sion; that if the war went on he might reasonably rely for help on divisions within France, as well as succour from Flanders; and altogether that there was time for negotiation and a fair prospect of securing the independence of Brittany without going to war.

Now Spain, besides being interested as England was in preventing the general overgrowth of France, had at this time a particular motive for wishing to place her in difficulties. At the eastern end of the Pyrenean range, and on the French side of it, with a sea-board on the Gulf of Lyons, lay a district (then called Roussillon, now the Eastern Pyrenees) which had been pledged by Ferdinand's father to Louis XI. for a sum of 300,000 crowns, and of which Ferdinand was very anxious to recover possession. Thus England and Spain had a common interest in uniting against France, which gave a safe ground for alliance; and Ferdinand and Isabella having a daughter only a year older than Prince Arthur, Henry proposed¹ (probably through the commissioners who were despatched to Spain in the middle of March to conclude a treaty of alliance) that a marriage between them should be arranged. The proposition was favourably entertained, and on the 30th of April a commission to conclude a marriage between the Infanta Katharine and Arthur Prince of Wales, was appointed by Ferdinand and Isabella.² The Spanish commissioner arrived in England on the 1st of June,³ and by the 7th of July a formal

¹ *Cal.* p. 6, last paragraph. ² *Cal.* No. 15, p. 3. ³ *Cal.* No. 21, p. 5.

indenture had been drawn up, and the heads of the arrangement agreed upon.¹ Thus Henry had at once secured one thing which his affairs at that time required—the reputation of a great alliance; while Ferdinand had obtained a hold upon Henry through which he hoped to make him an instrument for his other purposes.

It soon appeared, however, that though their interests met in this point, they did not run altogether parallel. Henry wished to secure the friendship of Ferdinand and Isabella in the event of new troubles coming upon himself; and he wished also that Brittany should remain an independent duchy. Ferdinand, though the independence of Brittany was an object with him too, liked to do one thing at a time, and at this time was more especially bent upon the recovery of Roussillon; and supposing that the English were still ambitious to regain their lost conquests on the northern and western coasts of France, he conceived the project of engaging Henry in an invasive war, not merely for the independence of Brittany, which might be shortly settled and leave things as they were, but for the re-conquest of Normandy and Guienne, which would involve a great and long struggle; and he thought that by making this a condition of the alliance he could easily obtain his consent. His commissioners were accordingly instructed to introduce into the treaty of marriage a strange clause—a clause binding Henry to declare war against France whenever it suited

¹ *Cal.* No. 20.

Ferdinand and Isabella to do so, and not to make peace or truce without their consent; but leaving them at liberty to make peace when they pleased, provided only that they included him in it. Nor, when Henry objected to the incorporation of such a clause in a treaty of marriage, would they consent to omit it, except on receiving his solemn promise that after the treaty of alliance and marriage was concluded, he *would* make war on France at their bidding.¹ The difference, however, on this point was too material to be adjusted without a fresh reference to Spain, so that the negotiation remained where it was for the next three months.

While this matter was under discussion, Henry's negotiations for the peaceful settlement of the quarrel between France and Brittany were going on diligently, and, as it seemed, not unhopefully. For the French king was still professing to favour and wish them success; and had just sent word that he was ready to leave the whole business in Henry's hands.² But a great and unexpected change was close at hand. All this time Charles had been secretly maturing his military preparations. And within a fortnight of the day when De Puebla despatched his report (15th July 1488) applying for instructions with regard to the disputed war-clause, a great battle was fought—the battle of St. Aubin—in which the Duke of Orleans' party (the reduction of which had been the French king's pretence of quarrel) was completely overthrown, himself

¹ *Cal.* pp. 9, 10.

² June or July 1488.—*Cal.* p. 6.

made prisoner, and Charles enabled to dictate a peace which established him in the possession of all the places he had won, and bound the Duke of Brittany not to call in foreign auxiliaries.¹ For the present, therefore, unless Henry chose to declare war against France on his own account, on the ground of false dealing, he could do no more.

But this state of things did not last long ; for on the 9th of September, before the treaty was three weeks old, the Duke of Brittany died. The duchy descended to his daughter, then only twelve years of age. Charles immediately put in a claim to the rights of a guardian, and proceeded, by way of security, to take military possession of her towns.² At last, therefore, he had fairly put off his mask. It was now plain that he intended to annex the duchy ; and if he was to be prevented, Henry must act at once, and act by himself, without waiting any longer for allies.

In the beginning of October he sent an ambassador to Brittany, recommending a husband for the duchess, and promising assistance.³ At the same time he sent a message to Ferdinand and Isabella, desiring their concurrence, and making some fresh proposal respecting the disputed clause in the treaty, which would, of course, be affected by his altered relations with France. In the beginning of November he laid the case before a Great Council specially summoned for the purpose—" the greatest

¹ Bacon, note 5, p. 72 ; 2, p. 74 ; 1, p. 84. ² *Ibid.* note 2, p. 76.

³ 11th Oct. 1488.—*Cal.* p. 15 ; where, if the date be correct, we must read "Duchess" for "Duke," whatever the original be. And so also (probably) in the two last paragraphs of the undated letter, No. 22.

council that was for many years without the name of Parliament." Finding them eager for war and ready to contribute, he proceeded to make his preparations; issued instructions for the levying of an army; gave due warning of his course to the King of France; made a careful bargain with the Duchess of Brittany for the repayment of expenses; despatched commissioners to conclude treaties of alliance for mutual action and assistance with the King of the Romans, the Archduke, and Ferdinand and Isabella; called a Parliament, and obtained a formal vote of supply; and finally, in the beginning of April, landed an army in Brittany strong enough to drive out the French—a work in which they began so prosperously, and proceeded so rapidly, that, before they had been there four months, Charles was fain to make peace, on terms which seemed to imply the abandonment of his pretensions;¹ for on the 22d of July a treaty was concluded at Frankfort between him and Maximilian, of which the principal condition was that he should restore to the Duchess all the towns he had conquered since her father's death, and withdraw his troops from the duchy—Maximilian engaging, on the part of the Duchess, that she should at the same time send away the English.²

To this treaty Henry does not seem to have been otherwise a party than as the person who had the greatest stroke in bringing Charles into the condition which disposed him to accept the terms.

¹ Bacon, notes, pp. 82, 84, 97, 101.

² *Cal.* p. 25, No. 26.

Nevertheless it answered his purpose in more ways than one. The attempt of France to annex Brittany by force had failed : so far the independence of the duchy was secured. It also made him more independent of Spain ; and so put him in a better condition for negotiation on the point where their interests severed. For the answer of Ferdinand and Isabella concerning the war-clause—arriving, probably, in November or December—had found him entering upon an enterprise of doubtful issue, and ready to concede more than he would otherwise have done. That his consent to that clause should be a condition of their consent to the marriage, and should be not verbal, but recorded in a formal instrument, they were still determined. They were willing only to let it be kept separate and secret, and to make the terms somewhat more equal ; that is, that both parties should be alike bound to make war on the King of France at the request, and not to make peace without the consent, of the other ; with the like exception in both cases, namely, the cession of Roussillon and Cerdaña to Spain, which would leave Spain free ; and of Normandy and Guienne to England, which would leave England free.¹ The equality was, indeed, only in appearance ; because Ferdinand wanted Roussillon and Cerdaña, and Henry did not want Normandy and Guienne. But at the time when these instructions arrived Henry was in the middle of his preparations, about to try the fortune of war in a new

¹ *Cal.* pp. 14, 17.

field, without any ally to whom he could trust for effectual support. Ferdinand and Isabella were really desirous that Brittany should be rescued, and liberal in promises of help.¹ On other points they were in a compliant mood. He knew that chance with management opens unforeseen ways out of difficulties. And upon the whole he judged the alliance to be worth the sacrifice, and resolved to accept the conditions. Commissioners, with instructions to that effect, had accordingly been despatched on the 19th of January 1488-9, and had already concluded a treaty, in which it was agreed, among other things, that as often as either party made war with France the other should do the same; and that England should not make peace without the consent of Spain, unless Normandy and Aquitaine were restored; nor Spain without the consent of England, unless Roussillon and Cerdaña were restored. This treaty, having been signed by the commissioners on the 27th of March 1489, and ratified by Ferdinand and Isabella the next day, was delivered to Henry by the commissioners about the end of July;² and all that was wanting to complete the transaction was a corresponding ratification by Henry.

But between the 19th of January and the end of July his position had been materially altered. The war in Brittany was not, indeed, quite over; for the treaty of Frankfort had not yet been

¹ *Cal.* pp. 18, 19.

² *Cal.* pp. 21-24.—Gairdner's *Memorials of Henry VII.*, pp. 192-199.

accepted by the Duchess, and Henry was at the time preparing to send reinforcements to his army there.¹ But he was no longer under anxiety for the fate of that enterprise. The English had been successful wherever they met the French, both in Brittany and in Flanders, where they had at the same time rendered important services to Maximilian.² No formidable difficulty confronted him requiring present co-operation. He could afford, therefore, to stand a while and look on; and the exchange of ratifications might wait till he saw what happened next. He appears to have met the occasion accordingly by sending another embassy to Spain, asking for additional securities with regard to the payment of the marriage portion.³

But though the arrangement between Charles and Maximilian would have answered Henry's purposes well enough, it did not at all suit those of Ferdinand and Isabella; for while it left Roussillon in Charles's hands, it also left his hands free. As soon, therefore, as they heard from their ambassadors in Brittany that the Duchess had accepted the treaty (which was in November 1489), they took measures to unsettle it. To their captains in Brittany, who had not hitherto been co-operating cordially with the English, they sent "imperative orders to concert everything with them."⁴ To England they wrote that "the intention of the King of France was to disunite the Duchess from

¹ Bacon, p. 102 (note).

² *Ibid.* pp. 98-100.

³ *Cal.* pp. 27, 29.

⁴ *Cal.* p. 29.

her friends, in order to take her duchy ;" that " this new friendship must be disturbed ;" that she was under the influence of partisans of France, " it might even happen that she would put herself under the protection of Charles ;" that the greatest efforts must be made to counteract this influence, and induce her to put herself under the protection of England or Spain—one or other, or both.¹ To any truce with the King of France—except on condition that he should respect the frontier, that the English should retain the fortresses they held, and that the Spanish troops should not leave Brittany—they decidedly objected. At the same time, to prevent the King of Scots from combining with the French king, they hung out hopes to him of a marriage with one of their own daughters. And when, a few months later, they heard that the Pope was endeavouring to reconcile England and France, they instructed their ambassador in Rome to represent to him the policy of the proceeding ; saying that if *Spain* and France were reconciled, peace between England and France would follow ; but that reconciliation between England and France would not involve peace between France and Spain ; for Spain could never make peace until Roussillon and Cerdania were restored.² To trouble the waters further, they proposed a marriage between their own son, Prince Juan, and the Duchess : a proposal which the Duchess (the better, perhaps, to keep secret her own engagement to Maximilian) affected to enter-

¹ *Cal.* p. 30.

² *Cal.* p. 31.

tain ; knowing, probably, that it was made only to obstruct a marriage in the French interest, and was not made in earnest.¹

If the object of these measures was to prevent a settlement,² they were not unsuccessful ; for within twelve months after the Treaty of Frankfort was arranged, we find Henry sending a new army of eight thousand men to assist the Duchess in defending Nantes against the French, and one of the English ambassadors in Brittany sent back in great haste to hurry them,³ so great and imminent the peril seemed then to be. And though the attempt on Nantes was not at that time persevered in, the news of the English succours having probably intercepted it, it was plain that another struggle for the duchy was impending. The best chance for peace was a strong war-alliance against the aggressor ; and it was now time for Henry to deal with the treaty which had been concluded by his commissioners a year and a half before, and still lay by him unratified. But it was not for nothing that he had stood a while and looked on. Time had brought him what he wanted—a fair way out of his difficulty. On the 11th of September 1490, he

¹ *Cal.* pp. 27, 31.

² It is stated in the Introduction (p. lxxi) that Ferdinand and Isabella had in the meantime offered to abandon Brittany, if Charles would marry a Spanish Infanta. But the paper which is referred to for authority is not mentioned in the *Calendar* ; and as we do not always find that the statements in the Introduction are fully supported by the abstracts in the body of the work, we do not introduce the fact into our own narrative, though it would come in well enough.

³ Gairdner's *Memorials of Henry VII.*, p. 374.

concluded a treaty with Maximilian, by which it was agreed that if either of them should, under certain specified contingencies, go to war with the King of France, the other should be bound to do the like within six months after being called on to do so; and that neither should make peace or truce without the other's consent. On the 12th he concluded another (kept separate, we presume, that it might be kept secret), binding both parties, in consideration of aggressions already committed, to make actual war upon him within the next three years. In these conventions Ferdinand and Isabella were to be included if they chose. And it would appear that their ambassadors in England had authority to consent; for on the 17th of September a public proclamation was issued, announcing the conclusion of a firm and perfect amity and confederation between the King of England, the King of the Romans, *and the King and Queen of Spain*—"in the which confederation, among other things, it is comprised that if Charles, the French king, do invade, or do to be invaded, them, or any of them, or any of their subjects, or the Duchess of Bretayne, their ally, by sea or by land, then every of the three kings, of Romans, England, *and Spain*, shall declare himself enemy of the said French king, and make actually war against him by sea and by land, to the best of their powers, as soon as he thereunto shall be required by any of them," etc.¹

Now this arrangement, as including Maximilian

¹ Rymer.

in the alliance, was a better one, both for England and Spain, than the other; and it enabled Henry, under plea of reducing the terms of the several treaties into accordance with each other, to get rid of the objectionable condition in the Spanish war-clause, or at least to render it nugatory.

His handling of the matter strikes us as very characteristic; and as it will give us occasion to point out an error in the *Calendar* of some importance, and to remove thereby a difficulty which had nearly upset our faith in the evidence supplied by this kind of correspondence, we shall explain it somewhat in detail.

Having first ratified the treaty of 27th March 1489 (already ratified by Ferdinand and Isabella, and containing their consent to the marriage), he proceeded to draw up another, which was meant to supersede those parts of it that related to the war. Beginning with a recitation of the clause whereby England was authorised to make peace without the consent of Spain upon the restoration of Normandy and Aquitaine, and Spain without the consent of England upon the restoration of Roussillon and Cerdaña;¹ it went on to say that whereas many points were left unsettled by the former treaty; and whereas a treaty had been since concluded between the King of the Romans and the King of England wherein the mode, form, etc., of making the war was more fully specified; and whereas it was fit that the three kings should be all united in

¹ *Cal.* p. 22, § 8.

the same obligations ; therefore the following articles had been agreed upon. Of these articles the first was framed in exact correspondence with the treaty of 11th September (already proclaimed), between Henry and Maximilian. It provided that in case of any aggression by the King of France against any territory belonging to England or Spain, or against the Duchy of Brittany, if the injured party declared war against him, and within one year after such declaration personally invaded France at the head of a sufficient army, the other having received due notice, should at the same time do the like. The second article corresponded to the treaty concluded with Maximilian on 12th September, and still, we suppose, kept secret. It stated that whereas Charles had offended all his neighbours, despoiled many of their patrimony, and even usurped territories belonging to Spain, England, and Brittany, therefore Ferdinand and Henry bound themselves, directly after the lapse of three years, or earlier if convenient, to declare war against him, and in their own persons to invade France with an army sufficiently strong to maintain itself, repel the enemy, and conquer the territories which he had taken from them ; and to carry on the war, by land and sea, for the space of two years without interruption. Nor shall either of the said kings (it proceeded—and here we come to the critical point as between Henry and Ferdinand)—nor shall either of the said kings discontinue the war within those two years without the express consent of the other, unless

both, on the part of England, the Duchies of Normandy and Aquitaine, *and* on the part of Spain, the counties of Roussillon and Cerdaña, be recovered from France, and reduced into possession of one or other of them ;¹ in which case each may discontinue the war when he pleases. That is to say, neither was to withdraw unless *both* were satisfied ; or in plain English, Ferdinand was not to make Henry help him to get back Roussillon, and then leave him to finish the war by himself. Other articles followed, relating to details of less importance, and to some unsettled points about the marriage ; and the whole concluded with a clause confirming so much of the former treaty as was not abrogated by this.

This new treaty, or project of treaty, having, on the 20th of September, been duly signed and sealed, Henry immediately appointed commissioners to deliver it to Ferdinand and Isabella, and to obtain from them a similar instrument in return.²

¹ Nisi quod interim *tam* pro parte Regis Anglorum Ducatus Normanniæ et Acquitaniæ, *quam* et pro parte Regis Castellæ, etc., comitatus Rocilionis et Saritanis . . . recuperentur et ad manus et potestatem cuiuslibet eorum reducantur.

² See Rymer, under date 23d February 1490. The description of this commission in the *Calendar* (No. 56, p. 34), viz., "to convey the ratified treaties to Ferdinand and Isabella, and to receive from them similar ratifications," is not quite accurate, and, in the absence of the document itself, might mislead the reader, and make him think that the treaty to be delivered was merely that of 27th March 1489, now ratified. That treaty was no doubt *included* ; because, in virtue of the last clause it formed part of the new one. But the business of the commission was clearly to deliver the new one. "Cum his actis diebus . . . nonnulla pacta . . . inita fuerint, sicuti in literis oratorum 27 Martii, 1489, superinde confectis ac per literas nostras patentes . . . ratificatis plenius continentur ; nosque *alias literas patentes* manu nostra subscriptas, huiusmodi pacta . . . partim recitantes, *eaque sic recitata extendentes*, expla-

But it was now Ferdinand's turn to stand and look on; for unless he could bind Henry to join him in the war when it suited him to begin it, without binding himself to continue at war when it suited him to make peace, the case stood very well for him as it was. Henry and Maximilian were going to war with France in behalf of Brittany: the very thing he wanted. Nor was it desirable to make the confederacy look *too* formidable by throwing his own weight into it. That the young Duchess should have support enough to encourage her in resistance, and yet not enough to make her seem unassailable, was the best condition for the game he was playing; and into this condition her affairs were now coming. Charles had, for the time, withdrawn from the attempt to obtain the duchy by

nantes, seu modificantes, de novo fieri et magno sigillo nostro muniri fecimus; Nos igitur . . . nostros oratores constituimus . . . dantes et concedentes plenam potestatem . . . ipsas nostras literas patentes sic manu nostra subscriptas, et magno sigillo nostro sic, ut præmittitur, sigillatas . . . dandi, tradendi, et deliberandi, aliasque consimiles literas a præfatis petendi, exigendi, requirendi, et recipiendi," etc.

The description applies, it will be seen, exactly to the instrument we have been speaking of; which is printed in its proper place in Rymer, and of which a full abstract is given (a little out of its proper place) in the *Calendar*, from a copy at Simancas, not dated, but described in the indorsement as "The treaty which the King of England asked and desired to conclude with my Sovereign Lords the King and Queen of Spain."

There is also in Rymer another treaty of the same date, which was probably prepared as an alternative in case Ferdinand objected to sign the other. It contains no allusion to Maximilian or to the new war-convention, but consists of clauses modifying the former treaty; the most important being the substitution for the Roussillon clause of a simple declaration, that neither party shall under any circumstances make peace without the other's consent. Another way of attaining the same object.

force, and was now trying to do it by marriage. But in this race Maximilian had had the start of him; for a proxy marriage having been arranged between him and the Duchess in March, it was actually consummated—so far as actual consummation could be effected by a ceremony in which the bridegroom was represented by the “bootless calf” of his ambassador—before the end of the year. The exact date is still doubtful; but we learn from these papers that as early as 4th July, Ferdinand knew the marriage to be in treaty;¹ that in the following winter his ambassador in Brittany knew it had been concluded;² and that at the same time (by a rather suspicious coincidence) Ferdinand—who had previously protested against any truce between France and Brittany, except on condition that the Spanish troops should remain—was, of his own accord, recalling them; some picked men only being left at the special desire of Henry, who thought it dangerous that they should *all* be recalled. The pretexts for this measure were the winter season and the conclusion of a six months’ truce with France. They were to be sent back in the spring. It so happened, however, that when spring came they were not in a condition to be sent back; and things happened in consequence which might have been (and perhaps were) expected. The proxy marriage, if allowed to stand—and the Duchess showed no disposition to repudiate it—was fatal to Charles’s project for obtaining the duchy by peaceful methods;

¹ *Cal.* p. 32.² *Cal.* p. 34.

but for violent methods it brought him help. He was not the only suitor whose hopes it extinguished. A great man of Brittany, hitherto a rival, became an ally. By his assistance, on the 19th of February (which must have been during the truce, and in the absence of the Spanish troops), Nantes was delivered into the hands of the French ; and in the beginning of April Charles entered it in person on his way to further conquests.¹

Here, then, was the very case for war under the treaties. When the news reached Maximilian, he, as the injured party, commenced warlike preparations, and warned Henry to be ready within the time agreed on. When it reached Spain, Ferdinand was busy with the Moors in Granada, and could not just then attend to anything else. But Queen Isabella wrote to De Puebla (26th May 1491), urging Henry to send at once to Brittany such succours as the case required. Their own troops, she said, were not ready for the service : they had been called home in the winter, because they did not seem to be wanted, and because they were without provision, and money could not be sent from Spain, the wind being contrary ; and they could not be sent back in the spring, because the Bretons had delayed sending the transports, etc. etc. And "such being the state of things, events had happened for which their Highnesses were very sorry, but which they intended to remedy as though the affair were their own. But great preparations

¹ Bacon, note, pp. 115, 116.

were necessary ; for troops must not only be sent to the places where they were wanted, but war must be made against the armies of the King of France in other parts of his dominions." Measures were in progress to make the position in Granada secure, and in six weeks Ferdinand would be able to attend to this business. Henry must be urged to send forces sufficient for the defence of Brittany in the interval.¹

Henry appears to have been ready to do rather more than his part in the immediate exigency, but could not undertake to do all. He did send some succours ; but being unsupported by either of his allies, they were not enough to keep the French out ; and he probably saw that if Brittany was to be saved, it must be by a joint war of invasion, and not merely by an army of assistance as before. He saw, at any rate, that this was his own way out of his own business, and took his measures accordingly.

At this point, unluckily, the Spanish correspondence, owing, probably, to the absence of De Puebla, becomes very scanty, and gives us scarcely any new information as to the negotiations which immediately preceded the war, or the part which the three allied powers severally took in it. We know, however, from other sources that soon after receiving Maximilian's message Henry resolved to invade France, and resolved also to announce the resolution to his people. Having first, as before,

¹ Queen Isabella to De Puebla, 26th May 1491. *Cal.* p. 37.

laid the case before a Great Council,¹ and by their advice and consent levied a "Benevolence" (which was done in July and August 1491), he summoned a Parliament. On the 17th of October Parliament met, and voted fresh supplies with great alacrity. On the 22d of November he concluded with Ferdinand and Isabella (or, we should rather say, invited them to conclude with him) a new treaty, binding each party to declare war against France before the 15th of April next ensuing; each to invade in person at the head of an army strong enough to conquer all the provinces usurped by the King of France; the campaign to begin before the 15th of June; and neither to make peace without the other's consent within two years from the day of invasion:²—and then immediately went forward with his own preparations.

All this suited Ferdinand well. He was not as yet finally committed to anything. He had not agreed to the proposed modifications of the treaty of 27th March 1489, without which modifications Henry had declined to ratify it. Nor do we find that the last proposal had any better fate. Indeed, why should he bind himself? The very occasion which he wanted was coming round of itself, and his concurrence was not needed to hasten it. Henry also had now a fair prospect before him; for if his allies did their part, they would be strong enough among them to command terms of peace; if they failed, he would still be strong enough by himself to

¹ Bacon, note, p. 117.

² Rymer.

be worth buying off at a handsome price. To him, therefore, it was likely to prove a saving business either way. But what, in the meantime, was to become of the poor little Duchess, now in her fifteenth year? Her royal suitor, having already taken her capital, and being in the way to take all her places of strength, was urging her to put all that was his and all that was hers together, and share them with him as his queen. Her royal husband had nothing to offer but promises. The "bootless calf" which he had sent to represent him in the bridal bed was of no service in defending her towns and castles against Charles's troops. Of her other allies, Ferdinand was otherwise occupied, and might fairly be suspected of having left her by design undefended; and Henry, though ready to do what he had engaged to do, had not engaged to protect her single-handed. There could hardly be wanting counsellors who represented to her that a peaceful union with France was better than a disputed independence, with Maximilian for her consort; better for her, better for Brittany, better for the whole country, and worse only for neighbours whose interest it was to keep France weak. The validity of a proxy marriage was a thing which divines might dispute and kings go to war upon; but in reason and conscience it could be no more than a promise of marriage made by a girl of thirteen to a man whom she had never seen; for breach of which no rational jury would award heavy damages. And, on the whole, what wonder that, in the words

of Bacon, "the young lady wrought upon by these reasons, finely instilled by such as the French king (who spared for no rewards or promises) had made on his side; and allured likewise by the present glory and greatness of King Charles (being also a young king and a bachelor); and loth to make her country the seat of a long and miserable civil war, secretly yielded to accept of King Charles."¹

The marriage took place on the 6th of December 1491, and made a great difference in the case as it concerned Henry; for the independence of Brittany, the only thing which he was really interested in fighting for, was gone: war could not now recover it. Nevertheless, it did not absolve him from his engagements to his allies; nor did it affect the reasons of the war as he had set them forth to his parliament and his people, unless as a fresh aggravation. The question was how to make the best of matters as they now stood. Now his own preparations were far advanced, and they had involved him in expenses for which he might fairly demand compensation. His allies, he knew, would neither of them be ready; but so much the better. He was in a position to fulfil all his own treaty-obligations; to get good security for the repayment of all expenses; and (as those expenses had been already provided for out of the Benevolence and the Parliamentary grant) to lodge the proceeds in his own coffers. To attempt more would be hazardous; but so much was within his reach. So he kept on

¹ Bacon, p. 103.

his way, and before the year was out he had accomplished it all. He had invaded France in person, as bound by the treaty, at the head of a sufficient army; later, indeed, than the time appointed, but too soon for either of his allies to meet him. Being released by their failure from his obligation to continue the war longer than he pleased, and having (since Brittany could not now be saved) no object of his own to fight for except his bill, he had, within a month after landing, bound the King of France to pay him 745,000 crowns, by instalments of 25,000 every half-year; had made peace, and brought his army back whole as it went. He had also got rid of the obstruction which had hitherto stood in the way of the final conclusion of the marriage-treaty. For Ferdinand had likewise succeeded in making his market, and wanted no more war for the present. As soon as he saw that Henry was really prepared to invade France with a royal army, he had commenced a separate negotiation on his own account. Two days before Henry embarked, the King of France (as we learn from Peter Martyr) was "protracting the negotiations about the counties of Roussillon and Cerdaña."¹ The landing of the English army quickened his deliberations. It was agreed that the counties should be restored. And on the 3d of January 1492-3—two months after Henry had made his own peace, but in pursuance, probably, of an agreement made earlier,—a treaty, known as the Treaty of Barcelona, was concluded

¹ *Cal.* p. 42, No. 77.

between the Kings of France and Spain, renewing the old alliances, binding Ferdinand and Isabella to assist the King of France against all his enemies, except the Pope; and in particular against the English, and the King of the Romans, and the Archduke Philip, as long as they should be at war with him; and not to marry any of their own children with any member of the royal family of England, or the King of the Romans, or any enemy of France, without the express consent of the King of France; *and*—restoring the counties of Roussillon and Cerdaña.¹ And though it is true that this did not indicate any attachment to Henry's interests that could be much relied upon, and even threatened a new obstruction to the match, yet it left it to rest upon its own inherent advantages; and, for the present at least, a pledge to go to war for the recovery of Normandy would not be required as one of the conditions. But the time was still far off when this treaty could be available for any purposes except the reputation of the alliance; and for that it served well enough as it was. It was allowed therefore, by mutual consent, to remain for the present in abeyance—neither finally agreed upon nor expressly disavowed—and leaving both parties free “to look one upon another's fortunes, how they would go.” Prince Arthur was a fine boy, but not yet seven years old; and it was not desirable for any of the persons concerned that the arrangement should be made irrevocable at present.

¹ *Cal.* p. 43.

Those who remember Bacon's theory of Henry's motives in this invasion will observe that the new facts revealed by the secret correspondence suggest an explanation much more creditable to him. They will see that it was not a sham enterprise got up merely for the sake of putting money into his own coffers at his people's expense; that the original engagement to join in such a war, under certain future contingencies, was a politic concession to secure the Spanish alliance; that the resolution to carry it into effect was taken upon a just and sufficient motive; for Henry *entered on* the war in good faith to save the independence of Brittany, which, in the summer of 1491, was in danger, but not past hope; that the surrender of the Duchess before his preparations were complete left him without any object to be gained by war, more than the reimbursement of the expenses it had put him to; and that what he did was merely this:—Before disbanding the army which he had got together, he made use of it to assist in negotiating the terms of that reimbursement; thereby turning it to very good account, much better than if he had used it to conquer Normandy. And so ended the first act.

The pause between the acts lasted a good while. Concerning the Treaty of Barcelona, Henry received no communication from Ferdinand and Isabella. An ambassador whom he sent to inquire was told

that they would send ambassadors of their own.¹ In the meantime we may presume that he learned what had happened, and made his own reflections on the proceeding of his allies. They had, in fact, simply reversed their action. Instead of allies of England against France, they were now allies of France against England ; instead of an engagement to marry their daughter to Henry's son on condition of his invading France, they had engaged *not* to marry her to any of his family without the consent of France. But though this was a thing to be remembered, it was not necessary at present to take notice of it. When the question came for practical solution, it was sure to come under some new conditions ; and there would be time enough to speak when the time came for action. Meanwhile, the alliance being unbroken by any outward act, he still had the benefit of it in reputation ; and though the promised ambassadors did not arrive, he made no complaint, and pressed for no explanations.

The truth was, that besides his engagement to France (which may have been the price of his restored counties), Ferdinand had another reason just now for standing aloof, and looking on Henry's fortunes how they would go ; for they were threatened at this time with a dangerous sickness, and it seemed not unlikely that his son would prove a bad match. Since the beginning of 1492, Henry's neighbour-kings had been listening with great interest to the story of a youth who announced

¹ *Cal.* pp. 51-54.

himself as the youngest son of Edward IV., supposed to have been murdered, but really preserved alive. His first public appearance had been made in Ireland, where he was welcomed with acclamations about the end of 1491, soon after the declaration of war against France. While there, he had been in communication with the King of Scots. He had then been invited to Paris by the French king, and entertained there as became his alleged rank, till the negotiation of the peace began, when, being in the way, he was requested to go. He was now in Flanders, acknowledged by the Lady Margaret as her nephew, and rightful heir to the English throne; countenanced by the King of the Romans and his son, the Archduke, and by several German Dukes; and having a secret correspondence in England with some persons high in rank and place. Before proceeding further it was well to wait and see what came of this; and for two years and more we have no traces of any communication between England and Spain.

At last, however, in the spring of 1495, the long-promised ambassador arrived. He came with news that, Roussillon and Cerdaña having been restored, they had concluded peace and alliances (as permitted by the treaty of 27th March 1489) with France,—which was old news; also that “they were not disinclined to form a fresh alliance with England if Henry wished it,”—which was new. The message had been delayed by the illness of the ambassador, but the original letter of instruc-

tion bears the date 3d November 1494,¹ which explains what it meant. About the end of October 1494, an ambassador had been despatched by Ferdinand to the French king (who was now in Rome, taking unwarrantable liberties with the Pope and the patrimony of the Church), with instructions to show him the original Treaty of Barcelona, and if he would not promise to désist, to tear it before his face. The treaty was so produced, and so torn, on the 28th of January 1494-5;² and on the 25th of February De Puebla was despatched to England with secret instructions to engage Henry to assist the Pope.³ The meaning of it, in short, was that the Spanish-French alliance had broken : Ferdinand was now engaged in getting up a league *against* France, and was on the brink of war ; in which case (as before) it would be very convenient to have Henry's help. The occasion revived all his interest in the marriage, the alliance, and Henry's fortunes generally ; and led to another long game of diplomacy, much like the last in object, means, and manner of handling, only that each player had profited by experience in the knowledge of his adversary. Again Ferdinand, hoping to hook Henry into an invasive war with France, used the marriage for his bait. Again Henry addressed himself to obtain the bait without committing himself to the hook.

Whether Ferdinand and Isabella were really desirous as yet to conclude the treaty of marriage,

¹ *Cal.* p. 52.

² Prescott's *Ferdinand and Isabella*.

³ *Cal.* p. 53.

it is difficult to say. As late as 19th July 1495, it is clear that De Puebla had his doubts on that point.¹ But there can be no doubt that they were eagerly bent on drawing Henry into an immediate war with France, and ready to do, or at least to promise, whatever seemed most likely to smooth his way. They began cautiously,—not yet knowing how he relished their recent proceedings. The Pope, he was to be told (25th February 1495), was in difficulties; as a Christian Prince, he would no doubt assist the Pope.² Next, he was to be informed (13th May) that a league had been concluded between the Pope, the King of Spain, the King of the Romans, and the Dukes of Venice and Milan, which was very advantageous to him, and which he could enter without prejudice to any one; the ambassador being at the same time instructed to ascertain in a quiet way how he now stood with France, and whether the King of France had not by failing in his own engagements freed him from his.³ Beyond this they did not venture, before hearing how the overture was received. When they found by their ambassador's report that Henry had no quarrel with them, and professed himself free as regarded France,⁴ they came a little nearer: sent him (20th July) a memoir of the French king's proceedings towards them, showing what he might himself expect from such an ally. The King of France, he was to be told, "bides his time," and

¹ *Cal.* p. 56.

² Secret Instruction to De Puebla.—*Cal.* p. 53.

³ *Cal.* p. 57.

⁴ *Cal.* p. 61.

when the time comes "does just what he pleases." To be ready for emergencies, it would be well to be ready for war : above all things to beware of renewing his alliance with that king, or lending him money.¹ As for the marriage, the conditions had been agreed on in the former treaty, and there would be very little to transact : it was to be treated as a settled thing.² On the 22d of August they came to the full point. The members of the League were bound to succour the Pope and the Church, and to assist one another in defence of their states. As Henry had enemies at home as well as abroad, and might need help in a defensive war, he would, if wise, join it at once, and arm. But this was not enough. "Besides this general league" (the ambassador was authorised to add, though with permission to reserve it for the present if he thought it inexpedient), "there ought to be a more special alliance to provide for the case of *aggressive* war against France"—an alliance between them, the King of the Romans and Henry binding each to invade in person as soon as any one did, "and to make no peace until France should have restored to them all she had taken from them, and made amends for all insults offered to them."³

How these advices were entertained by Henry, we do not exactly know ; but it was in such a spirit that the advisers were not discouraged from

¹ Henry had remitted, this year, two instalments of the peace-money. See Rymer.

² *Cal.* pp. 61-63.

³ *Cal.* p. 68.

going on. For on the 28th of December (by which time the answers must have been received) we find them urged again almost in the same terms.¹ The truth was, that at this time Perkin Warbeck, having been received and acknowledged by the King of Scots as Richard iv. of England, was beginning to look formidable; and it was of great importance to Henry to make no new enemies. He knew well enough (no doubt) what Ferdinand was really driving at,² and it was his policy to keep him as long as he could in hopes of prevailing. But though Henry's purposes were best served by delay, Ferdinand's (who was already at war) required precipitation. And on the 30th of January, finding Henry shy, he tried to hurry him by an alarm from the other side. For it was now to be intimated to him that, if he meant to conclude the marriage, he must be prepared to conclude the aggressive alliance, and to conclude it at once, without waiting to be formally admitted into the League; for that would involve delay. On the other hand, no difficulties were to be made about the terms; and assistance in all ways against "him of York" was to be liberally promised. But without an engage-

¹ *Cal.* p. 74.

² Which cannot be expressed better than in M. Bergenroth's abstract of a despatch to Maximilian from his ambassador in Spain, 9th January 1496. "Has often told the King and Queen of Spain what an advantage it would be to engage the English to undertake the conquest of Guienne. If that could be carried out, the French and the English would be so much occupied with one another that the dominions of the archduke would be in security, and the King and Queen of Spain and he could do what they liked, and Italy would be at their disposal."—*Cal.* p. 80.

ment to declare war against France immediately—if possible, a common war; if not, at any rate a war of assistance—the marriage-treaty must not be concluded.¹

Finding him still on his guard, and every day's delay being important,² they now began (14th April) to raise their offers and moderate their demands. They had already done much for him, and would do more. The King of the Romans had at length been persuaded not to favour "him of York." Did he doubt the Archduke? The Archduke would soon be their son-in-law, and would then be bound by the treaties to assist Henry. Did he fear Scotland? They had condescended to send an ambassador to the Scotch king for the sole purpose of detaching him from France, and reconciling him with England; and with the same view were now amusing him with a vain hope of marriage with one of their own daughters. Would Henry like him to marry one of *his* daughters? It would be a good thing, and their ambassadors would do what they could to help.³ Did he want proof that he of York was an impostor? And had the King of France offered to send over his father and mother? They could do better than that; they could send him a Portuguese knight, who had been ambassador to England in Edward IV.'s time, and had seen the real Duke in England and the Pretender in Portugal.⁴ As for the declaration of war, they would be con-

¹ *Cal.* pp. 83, 84.

² *Cal.* p. 88.

³ *Cal.* pp. 91, 92, 96, 97.

⁴ *Cal.* p. 92.

tent for the present if he would only "proclaim his alliance with Spain, arm his navy, and form a junction with the Spanish fleet, permitting Spanish vessels to enter English ports, and giving them all assistance there." The invasion might be settled after; he must be induced thereto by small degrees.¹

Still Henry stood quietly but firmly on the manifest unreasonableness of the request that he should provoke war with France, now very friendly, in a Spanish quarrel, at the very time when he was in immediate apprehension of an invasion by the King of Scots in support of one who pretended a lawful title to the English throne; and these last communications were crossed on the way by despatches from De Puebla, informing them (11th July 1496) that there was no disposition in England to go to war with France; and that if the treaties were not to be concluded without that condition, they could not be concluded at all.² Henry was willing to call together and review all his soldiers, and arm all his navy; but would engage for nothing more.³ He was ready, nevertheless (under certain conditions), to enter the League, and also to proclaim the fact (without mention of the conditions) in England and at Calais. The conditions were, that he should *not* be bound to succour the other members with a fixed number of soldiers or a fixed sum of money, or to keep an army always ready to repel attacks on them. And with these reservations he was formally

¹ *Cal.* pp. 92, 95, 105.

² *Cal.* p. 111.

³ *Cal.* p. 102.

admitted into the League, by a treaty concluded at Rome on the 18th of July, and ratified in England on the 23d of September.¹

This was something, though not much, towards the objects of Ferdinand and Isabella. Henry had engaged himself to nothing beyond the mustering of his forces—which was, indeed, a necessary precaution against Scotland. But it was a step away from the French alliance, and it left all questions regarding the marriage still open. The bait still remained on the hook, and the resources of the anglers were not exhausted. They expressed great satisfaction when they heard of it,² and returned to their work with fresh assiduity.

By the beginning of July their need of help had become more urgent; for the French king was again threatening Italy with a great army. Ferdinand had gone to the frontiers of Catalonia to raise forces, and Isabella “remained near the frontiers of Navarre, in order to superintend in person the preparations for war.”³ The correspondence was now conducted by her alone; but her instructions were all in the same strain, only with a touch of feminine vehemency, not so visible in the joint productions of the two. The style is diffuse, even as it appears in the abstract; but the import may be represented thus: The point to be gained was succour—succour without delay, for the sake of God and the Church. Now was the right time (6th July) for Henry to show his devotion to the

¹ *Cal.* p. 113.

² 25th Aug. 1496.—*Cal.* p. 122.

³ *Cal.* p. 107.

Pope.¹ If he cannot come in person (10th July), let him at least send his fleet, and allow his subjects to arm vessels.² In return, they will do for him whatever they can. Does he fear that France will support "the boy in Scotland"? Let him join us, and so many princes will come to his aid that all the power of France will not enable that boy to do him harm.³ Are his relations with Maximilian unsatisfactory? Let us know (18th August) what he wishes, and we will see it done as if it were our own business.⁴ Does he apprehend danger from Scotland? An alliance by marriage would be his best remedy; our ambassadors have instructions to arrange one, and to "negotiate everything according to his wish and advice."⁵ If he wants more, let him only say what, and how we may procure it.⁶ For "him of York," assure him that we will employ ourselves in the affair as one that concerns ourselves. Would hope of money move him? Tell him (22d August) that the Pope shall have a "crusade" in England, and share the proceeds with him.⁷ Does he think that we are slow in the marriage negotiation? Let it proceed immediately, and let no difference be stood upon that will cause delay.⁸ Has he declared it *impossible* for him to begin war with France? Then do not press him further at present (12th September); bide your time, and obtain more by degrees.⁹ Does he plead obligations to the King

¹ *Cal.* p. 107.⁴ *Cal.* pp. 117, 118.⁷ *Cal.* p. 121.² *Cal.* p. 108.⁵ *Cal.* p. 116.⁸ *Cal.* p. 116.³ *Cal.* p. 109.⁶ *Cal.* p. 118.⁹ *Cal.* p. 124.

of France? Tell him (15th September) that the best office of a friend is to stop one who is going to his own destruction.¹ Would he restore peace to Christendom? Let him declare war.²

De Puebla, who had all along been for concluding the match, being thus authorised, made quick way with it. And on the 1st of October 1496 it was concluded in London upon the old conditions (omitting those to which Henry had objected), and ratified without alteration at Burgos on the 1st of January. The marriage was to be contracted *per verba de præsenti*, either in person or by proxy, as soon as Arthur was fourteen; and if either party wished the contract to take place as soon as he was twelve, the other promised to do his best to effect it. On the 15th of January 1496-7, Ferdinand sent his ratification, with expressions of perfect satisfaction, and asked for Henry's ratification in exchange.⁴ It was still, indeed, to be kept secret; and he was still to be reminded (10th January 1496-7) that a declaration of war with the King of France, so as to compel him not only to desist from his attacks on the Pope and the Church, but to desire peace with all the members of the League, was hoped and expected from him.⁵ But this seems to have been merely, by way of menace, to quicken negotiations. For by this time the French had been beaten out of Naples, and Ferdinand must have been already engaged in those negotiations

¹ *Cal.* p. 126.

² *Cal.* p. 127.

³ *Cal.* pp. 129, 131.

⁴ *Cal.* p. 136.

⁵ *Cal.* pp. 133, 134.

with Charles which ended shortly after in a truce from the 5th of March to the end of October—a truce preliminary to a peace.

This truce, releasing Ferdinand from all immediate need of Henry's arms, left him at leisure to look round and see how his game stood. So far, neither party had reason to be dissatisfied. Henry had retained all along the full advantage in popular reputation of the Spanish alliance; and the marriage-contract was now made as secure as it could, or as it was desirable it should be made, while the time of consummation was so distant. Nor had it cost him anything; for he had neither made any sacrifice, nor received any obligation involving sacrifices hereafter. He had received from Ferdinand and Isabella neither men nor money; and though their good offices had been offered, and probably tried with the King of Scots, the King of the Romans, and the Archduke, they seem to have been of no use whatever with any of them. He had himself performed all he had promised, and owed nothing. Ferdinand again, though he had not succeeded in drawing Henry into the war, had succeeded in making his peace without; and though he had committed himself to the marriage on conditions favourable to Henry (for that branch of the negotiation had always been conducted in seasons when he wanted to make the bait as tempting as possible, and therefore to avoid all dispute about terms), the marriage itself had in the meantime risen in value. For before it was concluded—while it was on its way to Ferdi-

nand for ratification—Perkin Warbeck had played his best card, and lost the game. The King of Scots had espoused his quarrel, recognised him as Richard IV., married him to a lady of his own house, lent him an army, and invaded England on his behalf.¹ He was not likely to have another chance so good, and nothing had come of it;—a fact which Ferdinand no doubt noted, as showing not only that Henry was strong, but also that there was no considerable party in England disposed for a new War of the Roses. At present, therefore, Henry's fortunes seemed likely to go well; and the marriage became an object of desire for its own sake, as well as an instrument for working other ends. The Princess Katharine being still in Spain, Prince Arthur only in his eleventh year, and the terms of the treaty of *alliance* not yet agreed on, opportunities would not be wanting to make new difficulties should any new turn of events make it desirable, but for the present, Ferdinand (who, "after he had taken upon him," to use Bacon's words, "the person of a fraternal ally, would not let, in a Spanish gravity, to counsel the King in his own affairs") appeared chiefly anxious that he should take the opportunity of Perkin's failure to make up a peace with Scotland; and on the 28th of March 1497, wrote earnestly to that effect.²

¹ The exact date of this invasion is not settled, we believe. But in Ferdinand and Isabella's letter of 10th January 1497, it is alluded to as having taken place.—*Cal.* p. 133.

² *Cal.* p. 140.

Henry's troubles, however, were not over, and it seems that new signs of rough weather made Ferdinand pull up. For immediately after this last fraternal manifestation we come suddenly and unexpectedly upon another long interval, in which all communication *from* Spain appears to be suspended; an interval again coinciding—strangely, if by accident—with a storm in Henry's fortunes and a calm in Ferdinand's. A few days after the despatch of the last letter, the truce-treaty with France, which we have already mentioned, was finally settled. A copy was transmitted to Henry on the 8th of April 1497.¹ In the beginning of May a rebellion broke out in England: the men of Cornwall refused to pay the subsidy, marched through the country all the way to Kent, and finally encamped on Blackheath—an armed body of 16,000 men,—the King of Scots (with whom Perkin still remained) crossing the Northern Marches with an army at the same time. "A dangerous triplicity to a monarchy," says Bacon, "to have the arms of a foreigner, the discontents of subjects, and the title of a pretender, to meet;" and a crisis, we may add, of which Ferdinand would naturally pause to see the issue. It was not till near the end of the year that he heard news which satisfied him that it was really over. For though Henry beat the insurgent army to pieces on the 17th of June, and about the same time com-

¹ *Cal.* p. 142.

pelled the King of Scots, not only to retire within his own boundary, but to wish for peace, and with that view to dismiss Perkin from Scotland (which he did about the middle of July¹), the fire was not yet quite out in Cornwall: but there was a second rising in September, of which Perkin was invited to take the lead in person; and it remained to be seen what power the name of Richard IV. had with the discontented populations of the West. Again, however, it came to nothing. Before the end of the first week in October, Perkin and his wife were both in Henry's hands, and peace was concluded with Scotland; whereby his fortunes being rendered sounder and more secure than they had ever been, Ferdinand might now again safely resume the person of the fraternal ally. Not that he had thought of laying it aside. He had not on this occasion been merely looking on. The wind which blew him the news of Henry's final victory had been employed, it seems, for the last three months in keeping back an ambassador who *was to have* carried offers of help to him in his distress, but was still detained by weather at the sea-port when the last news arrived; and being then, in spite of the weather, despatched, was drowned in passage—instructions and all. And so it came to pass that the next communication which reached Henry from Spain after that of the 8th April 1497, before his troubles began, was not despatched till 7th March 1498, after they were well past.² When it arrived it was of course very

¹ Bacon, note 2, p. 187.

² *Cal.* p. 147.

fraternal and congratulatory ; and if Henry had any doubts whether so long a delay had been due to the wind alone, he kept them to himself, and showed to the ambassadors nothing but satisfaction.¹

They arrived at a busy time ; for Charles VIII. died while they were on the way ; and in the unsettled condition into which Europe had been thrown by his ambitious proceedings, the uncertainties of a new reign, with its brood of new questions, anxieties, hopes, and jealousies, had set every State more or less on its guard against every other. The interests of Ferdinand and Henry fortunately coincided in the main ; for both really wished for peace with France ; and if they dropped words occasionally which sounded like war, they were meant, we may presume, only to raise the terms of peace and improve their several bargains. Their chief difficulty turned upon Maximilian and the Archduke, of whom both were now closely allied to Ferdinand by marriage, and neither had deserved well of Henry. But though this caused some rubs and difficulties in settling the terms of the treaty of friendship and alliance, the negotiation of which was otherwise going smoothly forward, it did not interfere with the marriage, which both parties were now desirous to carry into effect. Already the contract had been not only ratified, but solemnised by proxy ;² and the knowledge that it was concluded was thought to have been of great use to Henry in his late difficulties.³ But the parties being still under age, a

¹ *Cal.* pp. 154, 160.

² *Cal.* p. 190.

³ *Cal.* pp. 162, 165.

Papal dispensation was required to make the proxy-marriage valid. This had been applied for, and in August 1498 arrived in England.¹ Whereupon the other preliminary arrangements having been in due time settled without further dispute, the nuptial ceremony was solemnly performed on the 19th of May 1499 by the Prince of Wales in person, now in his thirteenth year, with Dr. de Puebla acting as proxy for the bride.²

Henry's fortunes might now be considered as tolerably secure. Perkin Warbeck, who had at first been allowed to remain about the Court in a kind of free custody,³ had forfeited his liberty by an attempt to escape, and was now shut up in the Tower: nor is it likely that, after a confession of imposture publicly made, he could, under any circumstances, have appeared again as a formidable pretender to the Crown. The Cornishmen were quiet again, and had been made to pay the cost of refusing to pay taxes. All attempts at rebellion had been either detected and strangled in the cradle, or met and vanquished in the field. The old Duchess in Flanders had consented to ask pardon and promise better behaviour,⁴ and so left the way open for reconciliation with the Archduke. Scotland, instead of war, was treating of a marriage with England. In con-

¹ *Cal.* p. 185.

² *Cal.* p. 209.

³ Bacon, note 3, p. 201.

⁴ *Cal.* p. 196.—7th September 1498.

cluding his alliance with the new King of France,¹ Henry had obtained his own terms. The point in which he was still weak, which was his title, was proper to himself; if he died king and in peace, his son would inherit the strength of the throne he had established without the flaw in the title.

Nevertheless it began to seem as if no amount of prosperity would, while he lived, put him out of danger from the partisans of the White Rose. The very insanity of the enterprises that were undertaken in that cause showed how vivacious was the root of that danger; and this spring, when all else seemed so fair and secure, brought forth the maddest of all. The Earl of Warwick, son of the late Duke of Clarence and true male representative of the House of York, was living, and under Henry's own lock and key. Yet now again, for the second time, a counterfeit Earl of Warwick was set up, and the people were invited to rise on his behalf. Of course he was suppressed at once. But there seems to be reason for thinking that this last trial proved too much for Henry's patience. Former offenders of the same kind he had treated with remarkable forbearance. He had appointed Lambert Simnel to an office in his kitchen, and afterwards promoted him to the more honourable position of king's falconer. Perkin Warbeck had been allowed, after a while, if not from the first, to go at large under surveillance; and if he could have been as content to return to his original fortune as Simnel was,

¹ March 1499.—*Cal.* p. 208.

might perhaps have ended his days in some honourable office about the Court. But Ralph Wilford, the new aspirant in the same line, was promptly hanged. And (if we may credit a popular rumour mentioned as current shortly after) Henry's mind began to entertain thoughts like those which sent Macbeth to the witches. In a letter from Don Pedro de Ayala, dated 26th March 1499, we find it stated that Henry had, a few days before, asked a priest (who had foretold the deaths of Edward IV. and Richard) to tell him how *he* should die: that the priest told him his life would be in great danger during the whole of that year—hinting at the existence of the two political parties: that the King told him to keep his prophecy to himself; but that he told a friend, and that friend told another, and so it came round again to the King; upon which the second friend was imprisoned, and the priest and the first friend fled.¹ Such a story, coming to us through five reporters at the least—the priest, the priest's friend, the friend's friend, the person who told Don Pedro, and Don Pedro himself—would hardly be worth repeating, were it not for a fact stated upon Don Pedro's own observation, which follows:—"Henry has aged so much," he adds, "*during the last two weeks*, that he seems to be twenty years older." And certainly, if he was then debating in his thoughts the best means of delivering himself finally from these assaults, the struggle might possibly have produced some such alteration

¹ *Cal.* p. 206.

in his looks, and might have issued in a resolution which led to what followed. For certain it is, that when Perkin, a few months after, plotted an escape from the Tower and drew in the Earl of Warwick to join, he took the opportunity to make sure of them both. Perkin was hanged at Tyburn on the 16th of November 1499; the Earl was beheaded on Tower Hill on the 29th.

Each had his trial; and Perkin had fairly earned his fate. But what can be said for the execution of Warwick? For no offence except being born, he had been kept in close imprisonment for fourteen years. For no offence except endeavouring to escape, he was now put to death. It is disappointing to find that no fresh light is thrown by these Papers upon the history of this most unjustifiable homicide. Bacon's statement that "letters were showed out of Spain, wherein Ferdinand had written to the king in plain terms that he saw no assurance of his succession as long as the Earl of Warwick lived," is indeed countenanced by at least one passage, in which that objection is urged as a set-off against the advantages of the match,¹ coupled with another in which De Puebla begs for Ferdinand's *advice* as to what should be done with Perkin;² and nothing

¹ " Bearing in mind what happens every day to the Kings of England, it is surprising that Ferdinand and Isabella should dare to give their daughter at all."—15th July 1488.—*Cal.* p. 7.

² " I wrote a long while ago to your Highnesses, supplicating you to give your opinion and advice how the King of England ought to deal with Perkin. . . . Your silence causes much pain to me, because I am sure the King of England would do what your Highnesses might advise."—June 1498.—*Cal.* p. 152.

would have surprised us less than to come upon a letter exactly answering the description. But if any such message was sent, it is not to be found here. All we learn is that De Puebla congratulated Ferdinand and Isabella upon these executions, as making the kingdom more secure than it had been for five hundred years.¹

Much less will anything be found to justify Sir James Mackintosh's speculation that the death of Warwick had been made a condition of the marriage and agreed on beforehand. For the truth is, that the marriage had been proceeding for some time as fast as it could; faster than was originally intended; faster, indeed, than was of any use, except as making the engagement more difficult to evade. The two kings had watched each other long enough; and it is hard to say which of them was now the more anxious to "shut it up." It is true that there are traces here of a new and strange move on Ferdinand's side—made, however, some time *after* Warwick's death—which looks at first sight as if he were contemplating a breach. But such a supposition is altogether inconsistent with the rest of his proceedings both before and after; and we must seek another explanation.

The difficulty may be thus explained. The treaty of friendship and alliance had been settled with mutual satisfaction. The marriage waited only for Arthur to be fourteen and the Princess to be sent. Henry was already making preparations to receive

¹ *Cal.* p. 213.

her, and only anxious to know when she would come.¹ The delay was with Ferdinand, and was attributed to a revolution of the Moors with which he was occupied :² which might be a sufficient cause. But if that were *all*, how are we to account for what followed? Why did he, on the 25th of May, send to Toledo for the cancelled treaty of 27th March 1489?³ Why, having received it by a courier to whom it was delivered on the 30th of May, did he, on the 6th of June, send to De Puebla a long list of objections to the terms of the existing treaty, with instructions to get them amended by a new one?⁴ And why, if those objections were important enough to make it worth while to interrupt, when on the point of completion, an arrangement for the completion of which he had shown—and was still showing⁵—so much solicitude, were they afterwards allowed to drop without discussion and remonstrance?⁶

The answer is suggested by a letter of instructions which we shall presently quote; and it is this:

Ferdinand, whose own ways of dealing taught him to suspect other men's, had begun to fear that the prize was now great enough to attract stealers, and that Henry might be tempted by some better offer than his to break the match off. Now, Maximilian's daughter, Margaret, who had been married

¹ Don Pedro de Ayala, 24th March 1500.—*Cal.* p. 217.

² *Cal.* p. 218.

³ *Cal.* p. 219.

⁴ *Cal.* pp. 220-222.

⁵ *Cal.* p. 235.

⁶ *Cal.* p. 252.

in the spring of 1497 to Prince Juan, only son of Ferdinand and Isabella, had returned to Flanders in 1499—a very young widow, and a very eligible match. In the beginning of May 1500, Henry suddenly went over with his queen to Calais : the world of course wondering why, and various answers being given. Could it be to arrange a match between the Prince of Wales and the Princess Margaret? Ferdinand had known such things happen ; and forthwith sent an ambassador in great haste to England by way of Calais, with very confidential instructions,—of which time has broken the seal ; and which, as a fair specimen of the matter and style of M. Bergenroth's *Calendar*, we will give *in extenso* :—

FERDINAND AND ISABELLA : INSTRUCTIONS TO THEIR
AMBASSADOR.

“Do not doubt that Henry, in accordance with his virtues, and especially his faithfulness, will fulfil his promises respecting the marriage between the Prince and Princess of Wales. But it may be that the King of the Romans is endeavouring to undo the marriage, in order to conclude another marriage for the Prince of Wales : and it is not impossible that the King of England, from certain considerations, might enter into the plans of the King of the Romans. There is nothing positively known on the subject. The King of England has said nothing which could justify the suspicion that he intends to break off the marriage which has been

already agreed upon, and the ceremonies of which have been actually performed. Nevertheless it is necessary to warn him. Neither Doctor de Puebla nor any other person in the world must know any thing about their suspicions or about these instructions. He must be continually on the watch. As soon as he hears anything to justify what they suspect, or as soon as he observes that negotiations contrary to the marriage of their daughter with the Prince of Wales are being carried on, he must write to them, and do all in his power to frustrate the negotiations. Are satisfied with what De Puebla has hitherto concluded with Henry. But as De Puebla is said to be entirely under the influence of Henry, and to do nothing but what he wishes, he must watch him also every day during his stay in England, and see whether he does his duty. He must, in all his conversations with the king, with De Puebla, and with all other persons, speak of the marriage as a business perfectly concluded and sure, and say that preparations for the journey of the princess to England are already making. He must always call her Princess of Wales. If he hear any thing implying a doubtful intention on their part to marry their daughter to the Prince of Wales, he must most decidedly contradict it. In a secret letter he must inform them whether there is any thing said in England about another marriage, and whether De Puebla be a faithful servant of theirs. He is expected to write the whole truth, without, however, letting De Puebla suspect that he is

writing about him. He must, while he remains in England, inform himself what kind of person the King of Scots is, to how much his revenues amount, and acquaint himself with all he can about Scotland."¹

Taken by itself this is intelligible enough ; but take it in connection with the instructions to De Puebla of the 6th of June, and what are we to make of it ? If Ferdinand suspected Henry of an intention to break his engagement, and De Puebla of abetting him—and if he was determined that the engagement should not be broken (both which points the confidential paper above quoted seems to prove)—why should he furnish them with so handsome an excuse for breaking it as those instructions supplied ? The terms of the existing treaty had been formally accepted by him more than three years before : he had declared that “ Henry had been very liberal in all respects : ”² everything had been done to make it indissoluble. Yet now he sends word to Puebla that upon comparing it with the former treaty (which he had himself cancelled), he finds that some of the conditions are less favourable to himself ; and therefore he must ask Henry to amend them ! If Henry wanted a handsome excuse to be off, what better could he desire ? The fact must surely be that the instruction to De Puebla was meant for a feint, to cover the proceedings of the new ambassador, and enable him to pursue his

¹ *Cal.* pp. 234, 235.

² 28th March 1497.—*Cal.* p. 135.

inquiries without exciting suspicion. As he was not to confide to De Puebla the true object of his mission, he must be provided with a false one. De Puebla was accordingly informed (6th June) that "he came with instructions to ask the same things of Henry"—and that they must "act in concert."¹ This would naturally bring them into confidential communication, and so the secret inquisition might be secretly made. The new demands could easily be dropped when they had served their purpose.

Such a proceeding is intelligible, though it was not a fortunate specimen of Spanish diplomacy; for, being done in a hurry, the two movements did not combine. The instructions of the 6th of June had to travel all the way from Granada, and would hardly reach England before the beginning of August. The new ambassador, who had apparently been despatched before those instructions could be framed (his own instructions, unluckily, are not dated)—possibly before they were thought of (for the thing has much the appearance of an after-thought)—made such haste through France, under the agitation of the news he heard there, that he arrived in London on the 25th of June, outrunning any courier who may have been sent after him; and when asked by De Puebla what he came for, could only say that it was to visit the king and queen and prince, tell them what had happened in Granada, and speak about arrangements for the princess's household²—which must have marred the

¹ *Cal.* p. 222.

² *Cal.* p. 236.

whole plot. As it happened, however, it was of no consequence ; for it turned out that though there was much ground in rumour for Ferdinand's alarm, there was none in fact. When the ambassador was within two days' journey of Paris, he found that Henry and the Archduke had had an interview, which everybody there said was for the purpose of concerting a marriage between the Prince of Wales and the Princess Margaret. When he reached Boulogne he was told that it was concluded, and Henry had returned to England. As soon, however, as he crossed the French frontier he found that nobody had heard of any such thing : nothing was talked of at Calais but the festivities and rejoicings which the English were preparing for the reception of the Princess Katharine : the only doubt entertained in England was whether she would be sent as soon as people hoped ; and De Puebla's chief anxiety was that nothing should be said which looked like a change in the conditions assented to.

So this alarm having blown over, and the proposed amendments being easily waived in deference to De Puebla's opinion that it was better not to speak about them,¹ Ferdinand and Isabella, who were to send the Princess over at their own expense, had only to take security that all was safe before they incurred any charges. To make assurance surer, the marriage ceremony was once more solemnised by proxy after the prince completed his four-

¹ *Cal.* pp. 243, 252.

teenth year, and formally recorded in "a public instrument signed by the Prince of Wales, and sealed with his seal, which was drawn up by two apostolic notaries in the chapel of the Castle of Ludlow, in the diocese of Hereford, on the 22d of November 1500:" which instrument, being sent to Spain, Queen Isabella, on the 8th of April 1501, "ratified in her name and in the name of King Ferdinand [just then engaged in subduing a rebellion] all that De Puebla, as proxy for the Princess of Wales, had done and promised on that occasion; so that the marriage was now to be regarded as undoubtedly lawful and indissoluble."¹ And so, on the 21st of May, the princess departed from Granada; on the 2d of October, after much delay by contrary weather, arrived at Plymouth; on the 12th of November "made her entry into the capital, accompanied by such a multitude of prelates, high dignitaries, nobles, and knights, and with the acclamations of such masses of people as never before had been seen in England;" on the 14th was married—for the fourth time, but this time in her own person,—whereby "the union between the two royal families and the two kingdoms was now so complete, that it was impossible to make any distinction between England and Spain."²

J. S.

¹ Isabella to Henry VIII., April 1501.—*Cal.* p. 257.

² Henry VII. to Ferdinand and Isabella, 28th Nov. 1501.—*Cal.* p. 264.

V.

KATHARINE OF ARRAGON'S SECOND MARRIAGE.

IN the treaty for Katharine's marriage with Prince Arthur it was arranged that the dowry given by Ferdinand and Isabella should amount to 200,000 scudos, one-half to be paid at the time of the marriage and the remainder in two yearly instalments, the last of which might be given in plate and jewellery at the price such things would fetch in England. The young princess was sent to England, according to the treaty, in 1501, and the marriage was duly celebrated at St. Paul's on the 14th of November.

Scarcely were the day's festivities over and the wedding-guests returned to their houses, when King Henry spoke to an officer of the princess's wardrobe named Juan de Cuero, who had in his keeping the jewels and plate intended to be given as portion of the third instalment, and asked that they should be delivered to him at once. The demand was certainly premature, being two years before the stipulated time, and the officer refused to deliver them. Ashamed at meeting with this rebuff, the king, we are informed, a fortnight afterwards, ex-

plained to the princess that he had been led to make this demand by the Spanish ambassador De Puebla, who had shown him a letter from Ferdinand and Isabella stating that he was to receive the jewels and plate without delay. But the officer of the wardrobe had not only refused to deliver them, but declared he was nevertheless commissioned to ask a receipt for them. He had, therefore, applied again to Puebla to know the meaning of such extraordinary conduct. On this, he said, De Puebla had made a reply which convinced him that some trickery was intended, advising him to allow the princess to keep her jewels in the meantime and afterwards decline to accept them as part payment of her dower. By so doing, he said, De Puebla, though ambassador of Spain, had suggested that he might obtain an advantage over the Spanish sovereigns; for they would be ashamed to take from Katharine the jewels she had been wearing on her own person, and plate that she had used in her own household; so that they would be compelled to pay the last instalment in money like the others.¹

We must, perhaps, make some allowance for the fact that these circumstances were reported with a special view to damage De Puebla by the rival ambassador, Don Pedro de Ayala. But the story is so much in character with the general shabbiness of the diplomacy on both sides, that we cannot doubt it is substantially correct. It is, perhaps, a severe thing to say that even while giving sons and

¹ Bergenroth, *Supplement*, pp. 2-5.

daughters in marriage Henry VII. and Ferdinand of Spain were using every art to overreach and take advantage of each other. But it is not more severe than true. There was certainly on both sides a degree of what is commonly called sharp practice, an art in which, we fear, all the sovereigns of the age were more or less proficient, the only difference that can be traced in this respect between one crowned head and another being in the amount of intellectual power brought to bear upon self-interest. The life of Katharine of Arragon before she became Queen, was rendered utterly miserable by the relations in which her father stood to her father-in-law.

Within six months after the marriage, Prince Arthur died. The moment the news reached Ferdinand his first thoughts were about the dowry. Only the first instalment had been paid, and he considered that he had a right to ask it back. He immediately sent a new ambassador to England with this and two other demands, which perhaps may have been intended as alternative propositions. The first instalment of the dowry was to be repaid; the princess must have possession given her of the lands assigned to her as her jointure; and the king must be requested to send her back to Spain. There was, however, yet another alternative; which was anticipated in a separate commission. Power was given to the ambassador to conclude a new marriage for Katharine with her deceased husband's brother Henry, and to settle the amount and terms of the

marriage portion.¹ For many months it was impossible to bring the king to pledge himself definitely to any one of the proposed courses, and Queen Isabella, despairing of any other solution, bade the Duke of Estrada press for the return of Katharine to Spain. While matters were in this state, news reached her from England which made her still more anxious that her daughter should be sent back immediately. Henry VII. had become a widower, and a monstrous proposition had been talked about, the news of which must have reached Spain along with that of the queen's death, or close upon the back of it, that the king himself was willing to marry her who had been his own son's wife. Isabella was very naturally shocked. The return of her daughter to Spain, she wrote, was no longer a matter of expediency, it was one of pure necessity. "For now the Queen of England is dead, in whose society (the betrothal being concluded) the princess our daughter might have honourably remained as with a mother, and, the king being the man he is, even though the betrothal were concluded, it would not be right that the princess should stay in England during the period of mourning for the Prince of Wales."²

Besides insisting on the immediate return of Katharine to Spain, Queen Isabella thought it best to protect her daughter against Henry's advances by offering him the prospect of another marriage with one of her relations. This was Joan, widow of Ferdinand II. of Naples, commonly called at that

¹ Bergenroth, vol. i. p. 267.

² *Ibid.* p. 296.

time the young Queen of Naples, in contradistinction to her mother, the widow of Ferdinand I., with whom she was then living at Valencia. For some time Henry kept this offer under consideration, as there seemed some possibility that the alliance might be advantageous. He even went so far as to commission three gentlemen to visit Spain and obtain audience of the lady, of whose personal and other qualifications they drew up a report in answer to certain categorical inquiries a good deal more curious than delicate.¹ But meanwhile Katharine was still detained in England. Henry declined either to send her back or to repay the first instalment of her dowry; but at last a treaty was concluded for her marriage with Henry Prince of Wales, in which Ferdinand and Isabella renounced all right to redemand what had been paid, and promised to pay the remainder of the formerly stipulated dower within ten days of the solemnisation of the marriage.

A Papal dispensation, however, was necessary that the marriage might take place; and the case of marriage with a deceased brother's wife was so far unusual that the Court of Rome took some time to think about it, and fears began to be entertained in England that it would not be granted at all.² But at length a bull was conceded, a copy of which was privately sent to Spain in time to comfort Queen Isabella on her deathbed with the assurance

¹ See Gairdner's *Memorials of Henry VII.*, pp. 223 sq.

² Bergenroth, vol. i. pp. 328, 330.

that the way had now been smoothed towards her daughter's second marriage.¹ That any one doubted at that time the validity of such a dispensation, will probably be inconceivable to the majority of readers who have been accustomed to look upon the scruples of conscience afterwards entertained by Henry VIII. as a mere fiction to attain an unlawful end. But scruples of conscience were professed by his father when as yet Henry was only betrothed to Katharine, although the bull had been received from Rome which removed every canonical objection to the match.² Scruples of conscience were also spoken of after Henry's accession, before the marriage actually took place; and though we do not know that they proceeded from himself, they were conceived to be of sufficient importance to be communicated to the Spanish ambassador.³ So that it would seem we may account for that divorce which was the beginning of the English Reformation, without giving Henry VIII. much credit for originality.

On the other hand, it must be confessed that what Henry meant by a scruple of conscience, was anything but a conscientious scruple, as we should understand the expression now. It was no high question of what was best and noblest, suggested by a delicate moral sense which refused to take counsel

¹ Gairdner's *Letters of Richard III. and Henry VII.*, vol. i. p. 243.

² In 1505, a Portuguese ambassador at Mons reported that Henry VII. was endeavouring to negotiate a marriage for the Prince of Wales with the eldest daughter of King Philip, and that it was probable the marriage with Lady Katharine the Infanta would be undone, "because," said the ambassador, "it weighs much on his conscience."—Gairdner's *Letters*, vol. ii. p. 147.

³ Bergenroth, vol. ii. p. 12.

with personal desire. It was the scruple of a conscience that regarded nothing but legality—a conscience such as that described in Yorick's celebrated sermon, that looked carefully into the statute-book and intrenched itself behind cases and reports. It was the conscience of a statesman of the age of Macchiavelli, who thought even heaven and hell depended on the construction of a code of criminal law, and was quite as ready to cheat his Creator as his fellow-creature, by doing the shabbiest act that would not be visited with damnation.

The act which we have now to record was evidently dictated by a conscience of the kind just mentioned. Henry VII. had bound himself by the new treaty with Ferdinand to cause his son's marriage with Katharine to be solemnised as soon as the former had completed his fourteenth year. The day on which the prince attained that age was the 28th of June 1505. But on the 27th, by his father's direction, he made a formal protest against the marriage which had been arranged for him in his minority, as a thing that had been done without his consent, and which he refused to ratify. Thus, by a very simple manœuvre, Henry VII. escaped from his obligations. Matrimony was an act which no law could ever recognise as compulsory, and until he had his son's consent, it was impossible he could fulfil the terms of the treaty.

Yet there cannot be a doubt that if Henry had thought it for his interest that the match should take effect, he could have procured his son's consent

at once. The whole course of his subsequent negotiations on the subject with Ferdinand is clearly based upon a tacit understanding that the marriage would take place notwithstanding the protest, if Henry were only sure of the remainder of the dowry. Ferdinand, as he was bound by the treaty to have paid it within ten days before or after the marriage, ought clearly to have sent it to England before the day the prince made his protest. But nothing could be heard of its arrival ; or, more probably, its non-arrival was confessed : for we find Ferdinand was at this very time writing to the ambassador De Puebla that he would send it when the prince was *fifteen* years old, and making not the least allusion to the fact that he had already engaged to pay it when he was fourteen. Most probably some apology for the delay had already been sent to England ; and there was no reason why Henry should reject any excuse that Ferdinand chose to offer. Prince Henry's protest gave him the advantage of the Spanish sovereign, and, having already received one-half of the dowry, he was quite content to delay the marriage indefinitely till the other half should be forthcoming, without scrutinising too narrowly Ferdinand's pleas for postponement, which came at length to be renewed and continued every half-year, almost as a matter of course, as long as Henry VII. lived.

The only person who suffered from this state of matters was Ferdinand's unhappy daughter. So long as her mother, Queen Isabella, was alive,

Katharine's interests were cared for in Spain in every negotiation with Henry ; but it was otherwise after Isabella's death. The crown of Castile, which she had conveyed to Ferdinand by marriage, was again separated from that of Arragon, and passed by inheritance to their daughter Juana, the wife of the Archduke Philip, who thereupon was recognised as king, and was coming with his consort to Spain to govern in her right. Meanwhile, Ferdinand carried on the administration in his daughter's name, and used every effort to preserve still as much influence as possible over the kingdom he was to give up to Philip. Amid matters so absorbing, it was but a secondary consideration with him whether his other daughter Katharine had the means to live in England with comfort ; and not only did he leave her absolutely unprovided for during all this period of unsettlement about her marriage, but from the very first he seems to have made it his design to throw her, if possible, upon the charity of the King of England. There was already in the keeping of the princess's officers a quantity of jewels and plate which was to be given as part of the dowry along with the money still to be sent from Spain. As soon as it became evident that the marriage was to be deferred, Ferdinand wrote to De Puebla to see to its safe keeping, and the ambassador, who quite anticipated the order, wrote back that he had already locked it up, so that the princess should not touch it. She was far too liberal, he said, and there were many

persons who wished to strip her of her gold and silver. Juan de Cuero had told him there were already five pieces of silver missing, besides some other things. Doña Elvira and Don Pedro de Ayala had persuaded her to make some unnecessary presents, and the ambassador felt that he was clearly justified in interfering to prevent further extravagance.¹

This was in the summer of 1505. In December of the same year Katharine wrote a pitiful complaint to her father, saying she had forborne to speak of it before for fear of giving him annoyance. Since her arrival in England, she said, she had not had a single maravedi except merely for food. Her servants had not money to buy clothes. Dr. De Puebla had thwarted her in many ways, and was the cause of all her misery. She had asked him to speak to the king that she might have an old English lady as a companion, while one Doña Elvira Manuel was absent in Flanders ; but instead of that he had got the king to allow her to reside in Court and dismiss her household. Her health had broken down from the annoyances she had experienced, and she implored Ferdinand to send another ambassador. As to the plate and jewels, she was sure the King of England would not accept them as part of her marriage portion, lest people should say he had taken her ornaments ; besides, if he did, he would not take them at more than half their value. Altogether it was very hard that she

¹ Bergenroth, vol. i. p. 369.

should not have the use of them, and yet be in want of money.¹

By the following spring her necessities had increased, and she wrote to Ferdinand more urgently than before. On April 22 she complained that she had sent him many letters and received no answer. She was now in debt for the very necessities of life. She had been forced to borrow even that she might have food to eat. The King of England absolutely refused to relieve her, though she had besought him with tears. His answer was that the promise made to him about the marriage portion had not been kept. Her people were almost driven to ask alms, and she herself was "all but naked." She also desired that her father would send her a confessor, for she could not yet understand English, and she had been six months near death.²

It would have been indeed unnatural if Ferdinand had been wholly unmoved by such representations. At the same time he seems to have been of opinion that the burden of his daughter's support ought not to rest upon himself. By the death of

¹ Bergenroth, vol. i. No. 448.

² *Ibid.* No. 459. A letter of Katharine's to De Puebla, No. 427, which Mr. Bergenroth places a year earlier, as the date which he considers "for various reasons probable," appears to me indisputably to belong to this year, 1506. In it she desires the ambassador to appeal to the king in her behalf, speaking of her necessities much in the same terms as in the above letter to her father, and desiring him to tell Henry plainly it will be a dishonour to him if he abandon her. This letter is dated Richmond, the second day of Easter, which, in 1506, would be the 13th April. That to her father is dated Richmond, 22d April. It appears from No. 448, which is dated 2d December 1505, that Katharine had begun to reside at Court not long before.

Isabella he was now only King of Arragon, and the marriage portion of Katharine was chargeable upon the revenues of Castile. He therefore went so far as to apply to the trustees of Queen Isabella in that kingdom; and if Katharine could have been relieved without any sacrifice on his own part, no doubt Ferdinand would have been happy. But the trustees of Queen Isabella wrote that they feared they could do nothing directly to extricate the princess from her embarrassments. They had nothing in their keeping but two of the crown jewels and a collar, and they did not think it right to send these to England, where they would not be taken at their full value. They would, however, offer them to Ferdinand, and ask him to send money to the princess.¹ When this proposition had been despatched from Valladolid to Naples, whither Ferdinand had gone to look after the affairs of that kingdom, and been duly pondered by him, he at length sent a tardy and slender remittance, for the smallness of which he felt it necessary to make an apology to his daughter.

For two whole years had Katharine been in misery when this imperfect relief arrived. Many things had taken place during the interval, both to herself and others, in which she was largely concerned. Her brother-in-law, Philip, had gone to take possession of his new kingdom of Castile, and had died there. On his way thither he had been driven on the coast of England, when he and his

¹ Bergenroth, vol. i. Nos. 470, 484.

queen were invited by Henry to Court, and spent some time with the king at Windsor and at Richmond. Katharine had thus an opportunity for a week or two of seeing and conversing with her sister Juana, from whom she had been ten years separated. Considering the positive indigence into which she had fallen, it seems not only charitable but reasonable to suppose, though we have no testimony to that effect, that she must at this time have received some little aid from Henry, even to keep up appearances at Court during the pastimes in honour of King Philip.¹ For it was not till after Philip's arrival in Spain that Ferdinand bestirred himself so far in behalf of his daughter as to write to Queen Isabella's trustees; but as he was at that very moment at Saragossa, about to embark for Naples, the correspondence which ensued between him and them was necessarily a considerable time in passing to and fro, and when at last he sent her money from Naples, the remittance of course took still a few months longer. In the interval poor Katharine fell ill of a fever, and Henry, becoming solicitous about her health, gave up for her use a house at Fulham, which he had got ready for an embassy sent by Philip after his establishment in Spain.²

Whether Ferdinand really succeeded in persuading himself that he had done his duty to his

¹ She herself wrote to her father, on the 22d of April, that since leaving Spain, four and a half years before, she had only had two new dresses; and it is recorded that at these festivities on the occasion of Philip's visit, she and a Spanish lady danced together "in Spanish array."—*Memorials of Henry VII.*, p. 288.

² Bergenroth, vol. i. Nos. 492, 495.

daughter we need not trouble ourselves to inquire. He wrote to Katharine that he had done all that was in his power ; and it is remarkable that in none of his letters does he in the least pretend that the King of England was in fault. He laid the blame of Katharine's embarrassments entirely upon her brother-in-law. " May God," he said, " forgive King Philip ; for in truth, daughter, if he had not been your enemy, your dower would have been paid before I left Spain. But as the money wherewith to pay it, and the jewellery which was to be sold, were deposited in Castile, he had it in his power to prevent your dower from being sent." So Ferdinand had looked into the acts and statutes of parental duty, and found his own conscience totally void of offence. Of his heart it would be superfluous to speak.

Katharine, on receiving that little remittance, although it went to her heart that she could not, even then, reward the services of five faithful women who had not received a penny since they came to England, seems to have accepted her father's excuses for a good deal more than they were worth. She had no doubt that he had done all that was in his power, and the news that he was coming back to Spain seemed to double the relief that the money itself afforded.¹ But Ferdi-

¹ Bergenroth, vol. i. No. 532. That Ferdinand really could not have relieved his daughter long before is hardly conceivable. The following report as to his reputed wealth was made by three observant Englishmen in Spain in 1505 :—" Your Grace shall understand that the said king is reputed for to be very rich. For as long as the Queen (Isabella) lived, he

nand could not have expected his excuses to be held in equal account by Henry VII. Henry, no doubt, accepted them as before, and even in a manner admitted their validity, by consenting still to new postponements. But he at the same time took care to say to Ferdinand that he must consider this a very special favour—that it was a thing he would never have agreed to, but for the great regard he felt for him—and that many other princesses had been offered to his son with a dower even twice as great as Katharine's.¹

All this, perhaps, was only idle talk, to which in itself Ferdinand would have paid little attention. But Henry had already made a new move on the political chess-board, the significance of which must have been very obvious to him. The relations of the two kings being ostensibly those of perfect cordiality, Henry wrote to Ferdinand that he desired, having given up thoughts of the young Queen of Naples, to offer himself as a husband to his daughter, the widowed Queen of Castile.² From the time of Isabella's death the thought of wresting Castile from the hands of Ferdinand, or counteracting whatever influence he might have in its government, was never absent from the mind of Henry VII. He had taken pains to inform himself, from the first, as to the

spent nothing of his revenues of the realms of Arragon and Sicily; but he had a certain [sum] out of the crown of Castile for to maintain his estate withal. And so he ever gathered a great treasure, the which he hath done (caused) always to be kept in the Castle of Schatyva, that is six or eight leagues from Valencia."—Gairdner's *Memorials of Henry VII.*, p. 279.

¹ Bergenroth, vol. i. No. 508.

² *Ibid.* No. 502.

degree of stability of Ferdinand's rule there; and, by the friendship he had cultivated with Philip, he probably would have had it in his power at any time to repay Ferdinand in kind for any double dealing he might experience from him. So this bid for the hand of Philip's widow, however much it wore the guise of friendship, was perfectly unmistakable in its real drift and object.

There was no pretence, however, for treating the overture as of any other than an amicable character, and Ferdinand assured Henry that, for his own part, the match was quite in accordance with his wishes. But he must tell him it was very doubtful whether Juana herself would be inclined to the proposal. Such, at all events, was her peculiar disposition, that it would not do to talk of it to her. The affair must be kept strictly secret for the present, for if she herself should hear of it, she would certainly show the strongest opposition. In short, the King of England was given to understand, if, indeed, he did not know it already, that the lady whom he thus proposed to make his wife, was an ungovernable maniac.

The news, however, did not afflict him much. Ferdinand's ambassador, De Puebla, who on this, as on other occasions (not being the most clear-sighted of men) was easily won over to Henry's policy, reported to his master that none of the English councillors attached much importance to her infirmity, seeing that it would not prevent her bearing children; and, for his own part, he considered

it would be a very good thing in Ferdinand's interest that if her insanity proved incurable she should always live in England. He was inclined to believe, however, that she would soon recover her reason if married to such a king as Henry.¹

Altogether, the negotiations on the subject do not leave a very agreeable impression of diplomacy in the days of Henry VII. But the most revolting part of the business was that Henry got his own daughter-in-law, Katharine, to write to her father in his behalf that he might with Ferdinand's approbation marry her sister! Scruples of conscience about affinity might be all very well when anything was to be gained by putting them forward; otherwise, they were certainly not of more account than the natural objection to insanity. Not even Katharine herself betrayed any feeling on the subject. She considered it her policy to favour Henry's suit, and to write to Spain in the manner desired by her father-in-law. Her own marriage, she believed, would be advanced by promoting the negotiations, and she expressly desires Ferdinand to keep the King of England in countenance till her union with young Henry was completed.²

¹ Bergenroth, Supp., pp. 93, 94.

² Bergenroth, vol. i. Nos. 513, 526, 527. Of this last letter a translation was published in 1846 by Mrs. Green (then Miss Wood), in her *Letters of Royal and Illustrious Ladies*. But both Mrs. Green and Mr. Bergenroth have misapprehended the sense of one passage, of which the true translation is as follows :—

“That which I venture to request of your Highness is that if, in the disposition which your Highness shall find [in the Queen of Castile] upon this matter, you shall see that it will not be in your [power] (?), that it shall come to effect (for such I figure to myself must be the case), that

Despairing, however, as it seems, of acceptance in this quarter, Henry caused Ferdinand to be informed that if this match could not speedily be brought about, he had another in view which promised to be very advantageous to him. This was with Margaret of Savoy, Archduchess of Austria and daughter of the Emperor Maximilian. He had, in fact, been in correspondence with the emperor about it for some time, but Margaret had hitherto turned a deaf ear to his proposals. Still, the negotiations were not broken off, and seem, in fact, to have been terminated only by Henry's death. Had the project taken effect, it would have united the Netherlands with England under Henry's rule. At the same time two other marriages were spoken about, neither of which Ferdinand could be

your Highness will [nevertheless] entertain this negotiation until you bring my marriage to a conclusion ; for with this bait I think things will be done so far as concerns me better than in the past, when there comes a person who knows how to compass and unroll it, as I have written to your Highness."

I subjoin the original text, which has never yet been published :—

"Lo que yo a vuestra Alteza me atrevo a suplycar es, que sy en la dyspusycyon que vuestra Alteza sobre esto caso allare vyere que no a vuestra man . . . ra para que llege a efecto, porque a my asy se me fygura que a de ser, que vuestra Alteza entretenga esto negocyio asta dar fyn a my casamyento, porque con esto cevo creo se hara para lo que me toca meyo[r] que lo pasado, vynyendo persona que lo sepa rodea[r] y desenvolver, como a vuestra Alteza tengo escryto."

One word being mutilated at the end of a line, it is difficult perhaps to say with certainty what should be the precise translation of "que no a vuestra man . . . ra." But the general sense is clear, and I am sorry to say it is not, as Mrs. Green conceived, that Katharine begged her father not to act so that the marriage between King Henry and her sister should take effect. She merely expected that it would come to nothing, but begged Ferdinand to temporise and seem to favour it till her own marriage was settled.

expected to view with satisfaction. One was that of the Prince of Wales with the sister of the Duke of Angoulême, the other of Henry's second daughter Mary with the young Prince of Castile, afterwards Charles v. The first, of course, implied an abandonment of the match with Katharine altogether, a match to which the king told her plainly, owing to the non-payment of the marriage portion, he considered himself no longer bound to give effect.¹ The second was simply another form of the plan for taking away from Ferdinand the government of Castile.

In fact, it was tolerably apparent to Henry that Ferdinand never meant to pay the remaining instalment of Katharine's dowry at all. The Spanish sovereign was quite content to let his daughter remain in England unmarried, under the protection of the king to whose son she was betrothed, for an indefinite period. The excuses for each new postponement grew every time more threadbare, and it was reported that Ferdinand had confessed to the King of France that he did not expect the marriage with Katharine ever to be concluded.² In England, it was thought right to act on a similar presumption, and Katharine, who seems really to have been attached to the Prince of Wales,³ complained that

¹ Bergenroth, vol. i. No. 514.

² *Ibid.* p. 434.

³ I find nothing in the contemporary correspondence to confirm the statement of the Spanish historian Mariana (l. xxix. c. 17), that Katharine herself disliked the idea of marrying a second time in England. It is quite possible, however, that she objected to it when it was first mooted.

although living in the very same house with him, she had not been allowed to see him for four months.¹ This was the crowning vexation of her period of greatest trial, for it was some time before the remittance had been received from Ferdinand. That remittance amounted to the sum of 2000 ducats, sufficient to redeem some plate that had been pledged and to liquidate some debts, but nothing remained for her faithful servants, whom she had described as positively going about in rags.² Undoubtedly she would soon have fallen again into destitution, had not Henry at last taken more compassion upon her than her own father, and given orders that her wants should be relieved.³

But from this time a very perceptible coldness arose between Ferdinand and Henry VII. The King of England with his three marriage projects, even if one or two of them should fail, had clearly beaten his brother of Arragon, renowned as he was for subtlety, in the complex game of diplomacy. Ferdinand now expected to be stripped of the government of Castile,⁴ and though he could not afford to quarrel with England, his tone assumed a bitterness towards Henry that he had not manifested before. Nevertheless, as the only way to prevent a formidable combination against himself, he saw

¹ Bergenroth, vol. i. p. 412.

² *Ibid.* pp. 411, 427.

³ *Ibid.* No. 546.

⁴ According to a Spanish historian, it was rumoured that the English were collecting a fleet against Spain, and Ferdinand, though he knew it was not so, raised troops and equipped a fleet to protect the coasts. Sabau in Mariana, Table xvii. p. lxvii.

that it was his best policy to send without any further delay the remainder of the sum required for Katharine's dowry. To this determination had he at last been driven, with a thousand regrets, we may be sure, that he had not come to an understanding with Henry long ago, and a hundred apprehensions, as we know, that he should be cheated after all if Henry in his turn declined to complete the marriage, and refused at the same time to repay the first instalment of the dowry.¹ Accordingly in the month of February 1508, a new ambassador from Spain arrived in England, who was believed to be the bearer of the second instalment of the Princess Katharine's dowry.² This was Gutierre Gomez de Fuensalida, Knight Commander of Membrilla, one of the most able diplomatists in Ferdinand's service, whom he had sent once before to England on a mission too delicate for the resident ambassador, De Puebla.³ But Henry was not so easily satisfied now that he knew he had the advantage. He insisted that the value of Katharine's plate and jewels should not be deducted from the sum which was to be paid, but that the whole of it should be paid in coin. This demand Ferdinand felt it would be unwise to resist, and after some demur it was conceded. The King of England further required that as Ferdinand had put in a claim after Prince Arthur's death to have the

¹ Bergenroth, vol. i. p. 462.

² Gairdner's *Memorials of Henry VII.*, p. 109.

³ Bergenroth, vol. i. p. 234.

dowry restored to him, he should now absolutely renounce it altogether. To this, too, a show of opposition was made, but the difficulty was got over by Ferdinand saying that the dowry was Katharine's property, and if she chose to give it up to the King of England, he was willing to confirm the grant. Then came a much more serious demand, which showed that Henry was determined to make the most of his advantage. Ferdinand must confirm the marriage of his grandson Charles with the Princess Mary, else that of Katharine and the Prince of Wales would not even yet be solemnised. He must fairly eat the leek, every morsel of it.¹

This was the state of matters between Spain and England when the death of Henry VII. relieved Ferdinand from his embarrassment. How far he might otherwise have succeeded in extricating himself, it is impossible to say. He had intended, if all other means had failed, to have got his ambassadors in England secretly to arrange for carrying Katharine away back to Spain.² He was also preparing, just before he received the news of Henry's death, to have recalled the Commander of Membrilla whom he had so recently sent to England, not because he was dissatisfied with his proceedings, but because the King of England had positively refused to negotiate with him, and to have sent another ambassador in his place. But

¹ Bergenroth, vol. ii. pp. 2, 3. Gairdner's *Memorials of Henry VII.*, p. 442.

² Bergenroth, vol. ii. p. 5, Suppl. 28.

on hearing that the Prince of Wales had become king, he wrote at once to Membrilla that he was prepared to concede to the new king all that he had denied to his father, on the sole condition that the marriage with Katharine should immediately be celebrated.¹

The relief to Katharine must have been intense, for her treatment was now worse than ever. On the 9th March 1509, just a month before Henry's death, she had written to her father, "It is impossible for me any longer to endure what I have gone through and still am suffering from the unkindness of the king and the manner in which he treats me, especially since he has disposed of his daughter in marriage to the Prince of Castile, and therefore imagines he has no longer any need of your highness." She was in such distress that she hardly knew how to live. She had already been compelled to sell her household goods, and on speaking of her destitution to the king, he said he was not even bound to supply her and her household with food, except for the love he bore her. She was distressed at the condition of her servants, though they had not all served her well, especially one Juan de Cuero, whose conduct was exceedingly provoking. But most of all she regretted that she could not maintain her confessor as became his office, though she considered him the best that ever woman had. Membrilla had treated him very badly, and had troubled her about some money matters in which

¹ Bergenroth, vol. ii. p. 8.

she had acted under her confessor's advice. The ambassador considered that he had gone beyond his duty, and accused him, most unjustly in Katharine's opinion, of meddling in the affairs of the embassy—an imputation which the confessor resented so much that she could hardly get him to remain in her service. She hoped Ferdinand would write a rebuke to his ambassador, and let her confessor know that he considered him free from blame.¹

Towards the close of the letter are these melancholy words:—"I send, almost in despair, this my servant to your highness to implore you not to forget that I am your daughter, and how much I have suffered for your service, and how much my sufferings continually increase. Do not let me perish in this way, but write directly by this messenger what you decide; because in the condition in which I am now, I fear I may do something which neither the King of England nor your highness, who has much more weight with me, would be able to prevent, unless you were to send for me by force,—so that I may conclude the few days that remain to me in serving God, which would be the greatest good I could have in this world." That is to say, Katharine was seriously thinking of a nunnery as the only escape from her wretchedness.²

The Commander of Membrilla, no doubt, had a difficult task imposed upon him, and his efforts to enforce a rigid economy in Katharine's household naturally brought him into collision both with her

¹ Bergenroth, Suppl. 17-21.

² *Ibid.* 21, 22.

and her confessor. Katharine herself admitted that he was loyal in her father's service, but thought he did not know the art of managing the King of England.¹ He was, she said, the very opposite of his predecessor De Puebla, who had always been too compliant to Henry, but his behaviour to the king made things very unpleasant for her. And we can well imagine this from his own report of the matter written to Ferdinand five days before. He had hoped, he said, that the marriage of the Princess of Wales would have taken place before then, and that the disorders of her household would have been remedied without his troubling Ferdinand about them. There was great need of a person to govern it, whom she and the household might look to with respect, for at present it was quite under the control of a young friar, the princess's confessor, whom no one thought worthy of such a charge. His authority over her was far too great, for he took advantage of her good qualities; and as she was extremely conscientious, he made a sin of everything she did not agreeable to himself, and thus caused many things to be done wrong. Membrilla does not state what things he particularly refers to, as Ferdinand might ascertain them by questioning the bearer of his letter. This was a servant of the princess whom she was going to have despatched

¹ "Not that he is not loyal, but I think he does not know how to treat matters." So Mr. Bergenroth translates a passage in Katharine's letter; but the latter part should be, "how to treat *him*" (the King of England). The words in the original are:—"No porque el no sea fyeal a lo que creo, mas por no le saber tratar."—Suppl., p. 17.

without letting the ambassador know, to gratify some persons who wanted to make complaints against him. He would only say that the friar was "young and light, and haughty and scandalous in an extreme manner; and that the King of England had said to the princess very strong words about him." He, Membrilla, had himself ventured to tell the princess something about this friar which he did not consider right; but the result was, the friar had been able to put him completely out of her favour, so that if he had committed treason she could not have treated him worse. Nothing but his duty to Ferdinand would keep him longer in England; and he hoped Ferdinand would send her an old and honest confessor of the order of St. Francis,—that is to say, an economic one, the Franciscans being by their rule debarred every luxury and forbidden to touch money,—who could remain in her household without giving so much offence.¹

This quarrel between the friar and the ambassador has been made by one writer the groundwork of suspicions so preposterous and unseemly, that I think it better to pass them by in silence. It is probable enough that Diego Fernandez (for that was the friar's name), confessor and chancellor to Queen Katharine, as he afterwards proudly styled himself, had not too low an opinion of his own importance. His influence over Katharine is perfectly intelligible. He was her fellow-countryman and her spiritual adviser, while she was a lonely

¹ Bergenroth, Suppl. 13-15.

woman in a strange land, of which she could not speak or understand the language. Friars were, moreover, the constant recipients of female confidences (the reader will remember Juliet and Friar Laurence), and were chosen as confessors in preference to any other priests. But, of course, when selected to fill such a post towards women of exalted station, it was all the more requisite that their character should bear the strictest scrutiny ; and a double charge of youth and levity was particularly intolerable when the former imputation, at least, could not be contradicted. Diego Fernandez was a man of high spirit, and would not rest still under calumnious insinuations. He went to the ambassador himself and told him, "I know they have said many things to me of you." Membrilla at first pretended not to understand to what he was alluding ; but the confessor, who could not but be aware that Membrilla himself had spread charges against him, repeated his complaint in a way that could not be misunderstood. "I know," he said, "that in this house there are evil tongues, and they have slandered me, not to the lowest in the house but to the highest. And this is no disgrace to me ; but not to make it true, I remain here when I should otherwise already have been gone." On this the ambassador declares that he was so excited that he had much difficulty in restraining himself from laying hands on the confessor. "Moreover," he adds, "the King of England, and all the English, abhor so much to see such a friar so continually in

the palace amongst the women, that nothing could be more detested by them; and it is not a good token that the King of England does not remedy a thing which displeases him so much."¹

Membrilla was not in a more comfortable temper when he wrote again just sixteen days later. Ambassadors had come to England from Maximilian, King of the Romans, and from his daughter, Margaret of Savoy, with overtures for marrying the Prince of Wales to a niece of Maximilian's, daughter of Duke Albert of Bavaria. Besides setting aside altogether the long-desired marriage of Katharine, this was a third match between England and the house of Austria, for the project of the King of England's marriage with Margaret, and that of his daughter with Prince Charles of Castile, were still going on. Matters looked all the more critical because the nobles of Henry's Court, without suggesting one wife more than another, were anxious that the Prince of Wales should marry some one, in order to secure the succession, and it was said he had taken two months to make up his mind upon the subject. The ambassador could not help wishing that his successor had come. He was out of favour both with the King of England and the princess, and had not been allowed to see either of them for some time past. As for the princess, she was fairly angry with him. She was so submissive to her confessor that he made her do many things she ought not to do. Lately he had prevented her

¹ Bergenroth, Suppl. 15, 16.

going to Richmond with the Princess Mary to meet the king, after she had made herself ready to start. True, she had been so ill that she had vomited the night before, but she herself had felt well enough to go. The confessor, however, had said, "I tell you that, upon pain of mortal sin, you shall not go this day." This had irritated the king not a little, and he had not sent to inquire how she was, although he knew she had been ill.¹

Membrilla further gives it as his opinion that Ferdinand ought to withdraw the friar from the princess, for it was against the will both of the king and prince, indeed of all England, that he remained with her. "May God destroy me," writes the ambassador, "if I see in the friar anything for which she should have so much affection; for he has neither learning, appearance, manners, competency, nor credit." He adds that since he had come to know so much about the princess's household, he could not impute so great blame to the King of England for the way he behaved to her. The princess treated her chamberlain Juan de Cuero as if he had committed treason, simply because he prevented her selling plate "to satisfy the follies of the friar." They had sold, however, within fifteen days, 200 ducats' worth of gold—a thing which must be put a stop to. The ambassador had found means to send a good deal of money out of the country for fear of the king, who, from the little secrecy observed in the princess's chamber, had

¹ Bergenroth, Suppl. 23-27.

already heard of the design to carry her back to Spain.¹

Thus was the conduct of Katharine and her confessor watched and reported on. But with the ambassador's despatch there went a letter of Katharine to her father of the same date, in which she anticipated the injurious reports the ambassador had been making as to her confessor, and begged that they might not be believed; for Membrilla had said many things to the discredit of her household, and she declared she would not believe Ferdinand considered her as his daughter if he did not punish his insolence.²

The case might be stated thus:—Membrilla was straining every nerve to prevent a rupture between England and Arragon, and, to conciliate Henry VII., threw the blame of everything that went wrong on the indiscretion of Katharine and her confessor. It was only natural in Katharine to resent such conduct;³ but that her father would ever have visited it with anything like punishment in deference to her appeal is more than doubtful. No one knew so well as Ferdinand the urgent need of keeping the King of England in good humour; and he was ready to forgive much if Henry did not cheat him after all. But when the news reached Spain that

¹ Suppl. 27-29.

² *Ibid.* 33, 34.

³ Even after her marriage with Henry, and in spite of Ferdinand's having urged her to forgive the ambassador, she feels very sore upon the point, telling her father that if her confessor had been the worst man in the world she would have kept him and made him a bishop, to rebuke the ambassador. See Brewer's *Calendar of Henry VIII.*, vol. i. No. 368.

Henry was no more, there was the greater reason for urging that bygones should be bygones. The new king was young and inexperienced, and was not likely to press Ferdinand so hard as his father had done; and Membrilla was instructed to get the marriage accomplished at once by hook or by crook. The thing, Ferdinand said, was of first-rate importance to the interests of Spain, and every other object must be postponed to it. If Membrilla thought it of any use, he might bribe the ministers of the late king to remove their objections. Some of these wary statesmen, it seems, had been urging the scruples about marrying a brother's wife which were insisted on so strongly by Henry himself twenty years after he had actually done it. But Membrilla was to point out that the Pope's dispensation made the thing perfectly lawful; that it would be a greater sin in Henry to break his engagement to Katharine than he could possibly commit by fulfilling it; and that the King of Portugal, who had married two sisters, had been blessed with a numerous family, and was very happy.¹

Katharine herself had quite anticipated, even before the death of Henry VII., that that event would remove the only serious obstacle to her marriage.² Her expectation was fully justified by the fact. Before the above instructions had even been

¹ Bergenroth, vol. ii. pp. 8, 12, 14.

² *Ibid.* p. 14. The Spanish historian Zurita (vol. vi. p. 155) says, that even after Ferdinand had arranged to send the dowry to England, the old king would not allow his son to see the princess.

penned in Spain, the great object had already been secured, and Membrilla was able to write on the 8th May, little more than a fortnight after the old king's death, that he had completely settled the matter with the Privy Council, so that nothing remained to be done except the payment of the dower.¹

The young king's heart, apparently, had been fully set upon it; and on the 11th June—just seven weeks and a day after his accession—the nuptials were duly solemnised. On the 24th he and Katharine were crowned together in Westminster Abbey; and Henry wrote in glowing terms to his father-in-law of the love he bore to his wife, and the great popularity of their union.²

To Katharine it was the one brief period of happiness in a life which from first to last was full of unmerited pain. Not a cloud was then visible on her horizon. The honeymoon passed away in continual feasting. She possessed, for the time at least, the affections of a husband whose personal attractions were the theme of every tongue, and whose baser qualities were not yet strongly manifested. To add to her satisfaction, she believed that her marriage had virtually given her father a new kingdom. "These kingdoms of your highness," she wrote to him, "are in great peace, and entertain much love towards the king my lord and to me. His highness and I are very hearty to the service of

¹ Bergenroth, vol. ii. p. 16.

² *Ibid.* p. 20. Brewer's *Calendar of Henry VIII.*, vol. i. No. 338.

your highness." And in a previous passage of the same letter she says of her husband:—"Amongst the reasons that oblige me to love him much more than myself, the one most strong, although he is my husband, is his being the so true son of your highness, with desire of greater obedience and love to serve you than ever son had to his father."¹

J. G.

¹ Wood's *Letters of Royal and Illustrious Ladies*, vol. i. pp. 158, 159.

VI.

REVIEW OF THE EVIDENCE RESPECTING THE CONDUCT OF KING JAMES I. IN THE CASE OF SIR THOMAS OVERBURY.

*By JAMES SPEDDING, Esq., M.A., in a letter to C. Knight Watson,
Esq., M.A., Secretary to the Society of Antiquaries.*

MY DEAR WATSON,—The document which has recently been discovered at Loseley, containing a complete and authentic report of a message sent by King James I. to the Earl of Somerset on the 29th of December 1615, is a valuable addition to the four letters printed in the *Archæologia*,¹ nearly fifty years ago, from the autographs in the same collection. Those letters were written to Sir George More, between the 9th and 24th of May 1616, just before the trial; and there is another at Lambeth (not an autograph, but I suppose a true copy) addressed to Somerset himself in the preceding October, just before the committal. This new document gives us conclusive evidence as to the relation in which the King stood towards him in the middle stage of the proceedings, about half-way between those dates, and makes the history of it so clear and complete that no room is left for any

¹ Vol. xviii. p. 313.

further doubt about it. It appears, therefore, to be a fit occasion for collecting and reviewing the whole of the evidence bearing upon that point, of which we have now a great deal, when all is brought properly together, and of a kind too which is entitled not only to consideration but to precedence, as being better evidence than those who first told the story had access to, and such as they would themselves have preferred if they had had it. For it must be remembered that the writers of what passes for the secret history of James the First's reign were not acquainted with the true records of it. The real "secret history" is to be found in the official correspondence which passed in the course of business between those who transacted it—correspondence which they never saw, but which (or at least a great deal of it) we can see.

Instead, therefore, of taking the old story for a groundwork, and trying to fit the new facts into it, I propose to approach the question the other way: to begin by setting aside for the time every fact which rests upon the report of writers whose information came from doubtful sources, and admitting those only about which there appears to be no doubt; to ascertain first what we can be said to *know* about it, and then consider what else we are to believe. In this, however, I shall confine myself to those parts of the proceeding in which the king was personally concerned. The evidence against the several persons charged with the murder of Sir Thomas Overbury was publicly set forth and brought to a

judicial issue at the time, and this new paper throws no fresh light upon it. The evidence against the Earl of Somerset especially, was hunted out with the greatest diligence, studied and sifted with the greatest care, and set forth with the greatest skill and clearness; and though no official report of the trial was published, and the reports we have are all more or less defective and inaccurate, they are among the best of their kind, and probably the best that were made. It is not likely, therefore, that any new evidence will be discovered by which the aspect of his case, as it is seen in the State Trials, will be materially altered. Not so with regard to the charges against the king—charges not only not sifted by judicial process at the time, but not made or thought of till long after the time when any sifting was possible. Evidence materially affecting the aspect of these may turn up at any time, in any box or closet in which the secrets of those days have been placed for safety, or found a resting-place by chance.

Before I come to the particular case, it may be worth while to go back a little, for the purpose of exhibiting a piece of evidence which, although it has been accessible to all readers for the last twenty years, will probably be new to many, and the true bearing of which upon these questions does not appear to have been understood.

The discovery of the murder of Overbury happened to coincide in point of time, very nearly, with

the appearance of a new favourite at Court. The rise of a new favourite was of course supposed to prelude the fall of the old ; and when Somerset was seen to be called in question, for some cause not yet divulged, the inference of the Court of course was that the king was seeking a pretext for getting rid of him. And though the cause, as soon as it became known, amply explained and justified all that had been done—and inconstancy in his personal attachments was not one of James's weaknesses—the hasty inference, having fallen upon ground so favourable, took root and grew, and is now a part of the story. It is of some consequence, therefore, to know how the case really stood in that respect ; and it so happens that a letter from James to Somerset, written not many months before, has been preserved, and enables us to answer the question. It was first printed in 1846, in Mr. Halliwell's *Letters of the Kings of England*, from a manuscript at Lambeth Palace, which I have seen ; a copy in an old hand, which appears to have come to that repository from some one who had guarded it as a secret treasure, having been found (according to the docket) "in the black boxe signed with that seale w^{ch} Sir Tho. Maye brought." It has no date, nor any mention of the person to whom it was addressed. But of the person there can be no question ; and incidental allusions to two several subjects, which are *both* known to have been fresh, prominent, and irritating in James's mind in January 1614-15—"Peacham's Book" and Raleigh's History—leave

little room for doubt that it was written about that time, or not long after. Though it is long I must give it entire, partly because, when we want to know the state of a writer's feelings, extracts are seldom satisfactory, and partly because it is important enough to be worth preserving in a correct copy.

"First I tak God the searcher of all hairts to recorde that in all the time past of ydle talk I never knew, nor could out of anie observation of myne find anie appearance of anie such court faction as ye have apprehended; and so farre was I ever from overseeing or indirectlie feeding of it (if I had apprehendit it), as I protest to God I would have runne upon it with my feete, as upone fire, to have extinguished it, if I could have seene anie sparkle of it. As for your informations, ye dailie told me so many lyes of my self that waire reported unto you, as I confesse I gave the lesse credit to your reporters in other things, since ye could not be an eye witnesse of it yourself. Next I tak the same God to record that never man of anie degree did directlie or indirectlie lett fall unto me anie thing that might be interpreted for the lessening of your credit with me, or that one man should not rewle all, and that no man's dependance should be but upone the king, or anie suche lik phrase, quhiche if I had ever found, then would I have besturred my self as became both so great a king and so infinitelie loving a maister. Thirdlie, as God shall save me, I mente not in the letter I wrotte unto you to be spairing in the least jote of uttering my affection towards you, as farre

as yourself could requyre; my differing frome your forme in that pointe being onlie to follow my owne style, (w^{ch} I thought the comeliest): so as then having delivered my mynde as fullie to Maye as ye could have wished,—having wretten this letter,—having quyte turned my countenance from Grahme, the lyk whairof I never did to any man without a knowin offense,—I having receaved your nephew in my bedde chamber, the facion thairof being done in a needlesse braverie of the Queene, I did surelie exspect that the ydle talk would weare out lyk the Pope's cursing (especiallie seeing my owne hairet knew it to be without a grownde). For I am farre from thinking of anie possibilitie of any man ever to come within many degrees of your truste with me, as I must ingenuously confesse ye have deserved more trust and confidence of me than ever man did,—in secrecie above all fleshe, in feeling and unpartiall respect, as well to my honour in everie degree as to my profite; and all this without respect ather to kinne or allye or your nearest or deerest freind quhatsoever, nay onmoveable in one haire that might concerne me against the quhole world; and in these points I confesse I never saw anie come towards your merite; I meane in the points of ane inwardlie trustye freind and servant. But as a peece of ground can not be so fertill but if ather by the owin naturall rankness or evill manuring thairof it become also fertill of strong and noysome weedes, it then proves uselesse and all together unprofitable, even so these before re-

hersit worthie and rare pairts and merites of yours have bene of long tyme, but especiallie of late, since this strange phrenesy took you, so poudred and mixed with strange streames of unquyetnes, passion, furie, and insolent pryde, and (quhich is worst of all) with a setled kind of indured obstinacie, as it choks and obscures all these excellent and good pairts that God hath bestowed upone you. For although I confesse the greatnesse of that trust and privacie betwix us will verie well allowe unto you an infinitelie great libertie and freedome of speeche unto me, yea even to rebuke me more sharpelie and bitterlie then ever my maister durst do, yet to invent a new art of railing upone me, nay to borrowe the tounge of the devill, in comparison quhairof all Peachem's book¹ is but a gentle admonition, that can not cumme within the compasse of anie libertie of freindship. And do not deceave your self with that conceat that I allowed you that sort of licencious freedome till of late. For as upon the one pairt it is trew yee never passed all limites thairin till of late, so upone the other I bore, God Almightye knowis, with these passions of yours of olde, dissembling my greif thairat, onlie in hope that tyme and experience wold reclame and abate that heat quhich I thought to weare you out of by a long suffering patience and manie gentle admonitions; but the circumstances

¹ "There is now one Pecham, a minister of Somersetshire, in the Towre for that and a worse quarrell, having written seditious discourses under colour of petitions to the last Parlement," etc.—Chamberlain to Carleton, 5th January 1614-15. (S.P.O.)

joyned to the¹ maid them relish ten tymes worse to my taist then otherways they wold have done if they had onlie remained in puris naturalibus of passions. For first, being uttered at unseasonable houris and so bereaving me of my reste, ye was so farre from condemning your owin indiscretion thair-in, as be the contrarie it seemed ye did it of purpose to greive and vexe me. Next, your fyrie boutades were coupled with a continuall doggit sullaine behaviour towards me; especiallie shortlie after my fall, though I gave you a farre contrarie prooffe after your fall, and in all the tymes of your other diseases. Thirdlie, in all your dealings with me ye have manie tymes uttered a kynd of distrust of the honestie of my freindship towards you. And fourthlie, quhich is worst of all, and worse then anie other thing that can be imagined, ye have in manie of your madde fitts done quhat ye can persuade² me that ye meane not so mucche to hold me by love heirafter as by awe, and that ye have me so farre in your reverence as that I darre not offende you or resiste your appetites. I leave out of this reckoning your long creeping bakke and withdrawing your self from lying in my chamber, notwithstanding my many hundreth tymes earniste solliciting you to the contraire, accounting that but as a point of unkindnesse. Now whether all your great pairts and merites be not accompanied with a sowre and distastefull sawce, yourself shalbe juge. Consider like-

¹ So MS. A word has apparently been omitted: perhaps "same."

² So MS.

ways of the difference of the things that ye laye to my charge and that I lay to yours. Heir is not he said and shee said; no conjecturall presumtions, noe things gathered out of owtward appearance. I chaarge you with no thing but things directlie actit or spoken to my self. I wishe at God thairfore, and I shall both pray for it and hoape it, that ye may mak good use of this litle mirroure of yourself quhich heirin I present unto you ; it is not lyk Sir Walter Rallies description of the kings that he hates, quhomof he speaketh nothing but evill ;¹ for this layes plainlie and honestlie before you both your best and worst pairts.

“To conclude then this discourse proceiding frome the infinit greif of a deeplie wounded hairt, I proteste in the presence of the Allmightie God that I have borne this greif within me to the uttermost of my abilitie ; and as never greif since my birth seized so heavilie upone me, so have I borne it as long as possiblie I can ; nather can I beare it longer without committing ane unpardonable sinne against God in consuming my self willfullie, and not onlie my self, but in perrilling thairby not onlie the good estait of my owne people, but even the estait of religion through all Christendom, quhich all most quholie under God lyes now upone my shoulders. Be not the occasion of the hastening of his death through greif, who was not onlie your creator under God, but hath manie a tyme prayed for you, quhich

¹ “Sr Walter Raleigh’s booke is called in by the kinges commaundment, for divers exceptions, but specially for beeing too sawcie in censuring princes.” Chamberlain to Carleton, 5th January 1614-15. (S.P.O.)

I never did for no subject alyve but for you. But the lightening my hairt of this burden is not now the onlie cause that maks me preasse you indelayedlie to ease my greif; for your owne furious assaults of me at unseasonable houris hath now made it knowen to so manie that ye have bene in some crosse discour with me, as thair must be some exteriour signes of the amendment of your behaviour towardes me. These observations have bene maide and collected upone your long being with me at unseasonable houris, lowde speaking upon both pairts, and thair observation of my sadnes after your pairting, and want of reste.

“Quhat shalbe the best remedie for this I will tell you by tounge. But for the easing of my inward and consuming greif, all I crave is that in all the words and actions of your lyf ye may ever mak it appeare to me that ye never think to hold grippe of me but out of my meere love, and not one haire by feare. Consider that I am a freeman, if I waire not a king. Remember that all your being, except your breathing and soule, is frome me. I told you twyce or thryce that you might lead me by the hairt and not by the nose. I can not deall honestlie, if I deal not plainlie with you. If ever I finde that ye think to retaine me by one sparkle of feare, all the violence of my love will in that instant be changed in¹ as violent a hatred. God is my juge my love hath been infinit towards you; and the onlie strenth of my affection towards you hath maid

¹ So MS.

me beare with these things in you, and brydle my passions to the uttermost of my abilitie. Lett me be mette then with your entyre hairt, but softened with humilitie. Lett me never apprehende that ye disdaine my persone and undervalue my qualities; and lette it not appeare that any pairt of your former affection is cooled towards me. A king may slakke a pairt of his affection towards his servant upone the pairties defaulte and yet love him; but a servant can not do so to his maister, but his maister must haite him. Hold me thus by the hairt; ye may build upone my favour as upone a rokke that never shall feall you, that never shall wearie to give newe demonstration of my affection towards you; nay, that shall never suffer anie to ryse in anie degree of my favour, except they may acknowledge and thank you as a furtherer of it, and that I may be persuadit in my hairt that they love and honour you for my saik (not that any living ever shall come to the twentie degree of your favoure). For although your good and hairtlie humble behaviour may washe quyte out of my hairt your bypast errors, yet shall I never pardon my self, but shall carie that crosse to the grave with me, for raising a man so hye as might mak one to presume to perce my eares with such speeches.

“To make ane end then of this displeasing discours, think never to value your self to me by any other merites so much as by love and hairtlie humble obedience. It hath ever been my common ansour to anye that wolde pleade for favour to a Puritane

minister by reason of his rare giftes, that I had rather have a conformable man with but ordinarie pairts, than the rarest men in the world that will not be obedient; for that leaven of pride sowres the quhole loafe. What can or ever could thus trouble your mynde? For the exteriour to the world, what can any servants exspect of their prince but countenance or reward? Do not all Court graces and places come through your office as Chamberlane, and rewards through your father-in-lawe's that is Thesauraire? Do not ye two (as it waire) hedge in all the Court with a manner of necessitie to depende upone you? And have ye not, besydes your own infinite privacie with me, together with the manie offices ye possesse, your nephew in my bedde-chamber, besydes another farre more actif than he in Court practises? And have ye not one of your nerest kinsmen that loves not to be ydle in my sone's bedde-chamber? With this shuld ye have silenced these newes-bringers and makers of frayes. For no other thing is left behind but my hairt, quhich ye have nather cause to doubte, nor, if it did need, could they counsell or advyse you how to helpe.

“ Thus have I now sette down unto you quhat I wold say if I waire to mak my testament; it lyes in your hand to mak of me quhat you please, either the best maister and trewest freind, or, if you force me once to call you ingraite, quhich the God of Heaven forbidde, no so great earthlie plague can light upone you. In a word, ye may procure me to delyte to give daylie more and more demonstrations

of my favours towards you, if the faulte be not in your self."¹

Here, as it seems to me, we have both a sufficient explanation of the origin, and a clear proof of the error, of the rumours which were beginning to prevail at Court. Somerset had begun to abuse the authority which he possessed over the King's affections. He had become imperious, insolent, violent, jealous, and exacting. His behaviour had provoked angry and passionate expostulation; of which the courtiers had heard enough to show that there was a quarrel of some kind. And so far they were right. But if they thought that it arose from a cooling of affection on the King's side upon the transfer of it to a new object, this letter affords good proof that they were wrong. For this is not the language of an affection wearied of itself and seeking occasion to escape from its bonds, but of one painfully alive, passionately loyal, bitterly resenting the inadequacy of the affection with which it is requited, and earnestly desiring to be restored to its former condition. If the love was cooling, it was clearly not on the king's side that the process was beginning. And indeed if he had really wished to find a pretext for withdrawing his favour from Somerset, what more did he need than the conduct which provoked this letter? Instead of imploring him so beseech-

¹ Lambeth MSS. 930, 90. Docketed, "ADRIAN MOORE, JHON HOLLAND. These three letters weare in the black boxe signed with that seale w^{ch} Sir Tho. Maye brought." The MS. is not divided into paragraphs.

ingly to be again what he used to be, why did he not simply let him understand that the favour he had enjoyed had been abused and forfeited, and was withdrawn?

Nor did anything occur between the writing of this letter and the discovery of the murder of Overbury which belied the professions in it. Somerset continued to be as great a man as ever in all outward conditions;¹ except the opinions of the courtiers, who, knowing that there had been a quarrel and seeing a new man rising rapidly in favour, began to look for a change. Whether such a change would have come at all, how soon, and with what circumstances, had things gone on in their ordinary course, nobody can ever know. Changes of the kind were more than once confidently expected and predicted during James's reign, which never came to pass. But the discovery of the murder utterly altered the case. And we have now to inquire how the king entertained that discovery, and what measures he took upon it.

Setting aside then (for the present) rumours, speculations, and anecdotes of doubtful authority, I shall begin by stating what we may be said to *know* about this.

Sometime in July 1615 Sir Gervase Hellwysse, Lieutenant of the Tower, hearing from the Earl of

¹ For the relation between him and the king as late as the 20th of August, see Mr. Gardiner's copy of Gondomar's despatch, October 30, 1615, which I had not seen when I wrote this.

Shrewsbury (who had heard it from Secretary Winwood) that Sir Thomas Overbury was suspected to have died by violence while under his charge, volunteered a statement to Winwood; in which he admitted that there had been a *design* to poison Overbury by the hands of Weston, the under-keeper, but asserted that he had himself detected, dissuaded, and taken means to prevent, though he had not revealed it.

This Winwood reported to the king; whose first act was to require Hellwysse to set down his declaration in writing.

The declaration which in obedience to this command Hellwysse drew up is dated 10th September 1615, and is still to be seen among the State Papers. It admits not only that he had himself discovered the intention of Weston to poison Overbury, but that he had since heard from Weston that Overbury was really murdered, and that it was done with a clyster, administered afterwards by an apothecary's boy, who had been bribed. The only actor in the business that he knew of, besides Weston, was (he said) one Mrs. Turner; who, as soon as she heard that the case was likely to be inquired into, had sent Weston to sound him and find out how much he knew, and what part he was likely to take. But though he did not in this statement mention the Earl or Countess of Somerset as directly implicated, it seems that in his previous communication to Winwood he had excused his own silence as proceeding from fear of "impeaching or accusing great

persons ;”¹ and an admission in his present declaration that though he had “set down the truth,” it was “peradventure not the whole truth,” would naturally be interpreted as referring to Somerset.

Upon this the King, who does not appear to have heard of the rumour before, referred the matter to “some councillors,” with the following general instructions for their proceeding :—

“There are two things in this cause to be tried, and the verity can be but in one of them : first, whether my Lord of Somerset and his lady were procurers of Overbury’s death, or that this imputation hath been by some practised to cast an aspersion upon them. I would first have you diligently inquire of the first ; and, if you find them clear, then I would have you as carefully look after the other, to the intent such practices may be discovered and not allowed to pass with impunity.”²

The case upon inquiry was found to be so grave that it was thought expedient to put it into the hands of Sir Edward Coke, then Chief Justice of the King’s Bench, and more practised in such investigations than any other man in England. A fragment of a letter, undated and unsigned, and without anything to indicate the address, but written in Winwood’s hand, who was at that time in attendance on the king, represents, probably, the king’s instructions on giving Coke the commission. They

¹ Bacon’s charge against the Countess.

² Read at the arraignment of the Countess, and the original shown to the Peers. See *State Trials*, vol. ii. p. 956.

are instructions which would naturally be suggested by Hellwysse's declaration ; the persons named being those indicated therein as most immediately concerned in the treatment of Overbury ; Mayerne, as the physician who had prescribed for him and "left behind him directions ;"¹ the French apothecary, as the medical man who had attended him by Mayerne's appointment ; Weston, as the under-gaoler who had been detected by Hellwysse in the act of bringing food which he knew to be poisoned ; Mrs. Turner, as a person with whom Weston was known to be in collusion ; Sir Thomas Monson, as the man who had recommended Weston for the place of under-gaoler with special charge of Overbury ; and Hellwysse himself, as the responsible officer who by his own admission had known of the attempt and not revealed it. Judging by the style, and comparing it with other drafts in the same hand, I have little doubt that it was written by Winwood from the king's dictation, and what remains of it is worth giving at full length.

* * * * *

"and whither was yt owt of hys owne meere motion or by the perswasion of any other, and yf by the perswasion of any other by whose was yt, and to what end ?

"Did he ever meete wth him or heare word from him, eyther during the tyme of hys being in the Tower or any tyme sence, and to what purpose ? Did he ever knowe of any mony he receaved from

¹ He had been sent to Bath, I believe, to attend the Queen.

any, and for what use? When was the fyrst tyme that ever he heard of thys vyle busines and by whom?

“Mayerne must be asked the state of the prisonnier’s body when he last saw him, and what deseases he was most enclyned unto: also both he and other physitians are to be asked the symptomes and effect of poyson, especially being geven in a glyster.

“The French apothecary ys to be asked whether he himselfe or a man of hys mynistred to the prisonnier when he was in the Tower. And yf hys man, who this was, how oft he sent him to him, and wth what phisick, especially what the last phisick was that he sent him, and yf yt was a glyster: as also he must be asked yf he had any acquayntance wth M^{ri}ss Turner, and what yt was, and whether he knew of any acquayntance betwixt hys man and her, and upon what occasion.

“The crowner ys to be asked what report was made unto him of the forme of the pryson^{re} deathe, and what marks he saw upon hys body.

“More persons may bexamined¹ and more Interrogatoryes made, as yt shall fall owte in the cowrse of the examina^{re}.

“Th’orderly fayre cowrse in a thing of thys nature ys, that fyrst Weston be haerd tell hys owen tale, after a good admonition that ys to be geven him: yf he contrary the Lievetenant, then, after once re-examining of the Lievetenant, are they to

¹ So in MS.

be confronted *ante omnia* ; but yf they agree in one tale then ys Mystress Tournier to bexamined next Weston : and yf they differ, after her keeping cloase a day or towe, they towe are to be confronted, then the Lievetenant to be re-examined, then Monson, then the rest of the partyes as occasion shall requyre.

“ In conclusion, thys fact and mynt must eyther be trewe or not : yf both prove trewe, then ys there noe more neede of examination : yf the mint only prove trewe, then ys there severe tryall to be taken for fynding owt the grownd of the lye upon the fact ; but yf bothe be false, then must there be a fowle conspiracye in the busines, for the fynding owt wh^rof noe paynes ys to be spared ; the punishment wh^rof will be the best example that ever came in my cowrt. But sence as yet the discoverye goes no further then to meane persons, the fayrer, juster, and stricter that the tryall ys, the more favour and honour yt will be to thoase greate persons to whom thys busines may be thought to have any indirect relation : for where innocency ys not clearely tryed the scarr of calumnye can never be clerely cured.”¹

Coke, finding how deeply the evidence implicated the Earl and Countess of Somerset, thought it prudent to strengthen himself with the help of persons of higher rank than his own ;² and upon his request to that effect the king joined in commission

¹ S. P. Dom. James I. vol. lxxxi. p. 132, A. The first sheet is missing ; no signature, date, or docket.

² Bacon's Charge against the Countess of Somerset.

with him the Lord Chancellor Ellesmere, the Duke of Lenox, recently made Lord High Steward of the king's house, and Lord Zouch, recently made Warden of the Cinque Ports. The exact date of the Commission I have not been able to ascertain;¹ but I suppose it to have been early in October—certainly before the 17th. Nor can I find any record of the exact time at which Somerset was sent for as a person implicated, or any authentic record of the circumstances. But if it be true that during the earlier investigations he was attending the king on progress, being still in possession of all his honours and offices, the natural course of proceeding would be this: The commissioners would send a special messenger to the king to say that Somerset was wanted, and beg that he might be directed to repair to London and hold himself in readiness to appear before them. And it was probably upon this occasion that the parting scene which Sir Anthony Weldon professes to have witnessed at Royston, and the particulars of which are so well known that I need not repeat them, really took place; at which time it may very well have passed

¹ Gondomar's Despatch, October 30, 1615, which supplies some new particulars concerning the movements of Somerset and Coke at the time the Commissioners were appointed, does not give the date. But he states that the first meeting of the Commissioners was on the 15th of October; and I have no doubt that Mr. Gardiner is right in supposing that the Commission was signed and delivered to Coke in person at Royston on the evening of Friday the 13th.

I have thought it better to add these corrections in footnotes than to incorporate them in the text, because I did not know of this new evidence when I drew up my narrative, and if I were to introduce alterations, I might make it inconsistent with itself.

in the manner described : for the king could not have treated Somerset, before he had been examined, as a guilty man,—even if he had known (which he did not¹) what the evidence against him was ; and yet his reluctance to go, and the style of his behaviour at the moment, may very possibly have made the king feel that there was small chance of his proving innocent ; so that the words spoken by the king *immediately after the parting* may have been suggested on the instant by the parting itself.

But whatever may have been the manner of the king's behaviour to Somerset in public, the relation in which they really stood towards each other after this time is known to us on better evidence. Weldon may have described truly what he saw, but he could not then know what the occasion was ; and, in connecting the scene with circumstances which he learned afterwards, he may easily have made mistakes. But among the manuscripts at Lambeth there is a copy of a letter from the king—it came in the same sealed box which contained the letter I have already quoted—without date indeed, but evidently addressed to Somerset, and

¹ It would seem from a passage in the newly discovered paper as if Coke had actually objected on legal grounds to acquaint the king with the evidence : “ And whereas he [Somerset] desires me to acquaint hym beforehand wth the thinges that ar to be layed to his charge, besides that it is so farre against the consciens and hono^r of a king to doe it, it is altogether impossible for me so to doe, although I had never so good a will to doe it ; for the Chief Justice refuses absolutely to serve in his place, as I told hymself at Roiston, if I shall be acquainted w^t any articles concerning blood before the partie come to his publick triall.”

evidently written soon after the appointment of the commissioners ; which shows that Somerset had vehemently remonstrated against the act, and exhibits the state of the king's feelings towards him in a manner so manifestly sincere, that it is worth quoting in full ; the rather because the copy printed by Mr. Halliwell in his *Letters of the Kings of England* is in some places incorrect.

“ I neid not to ansour your lettir, since Lenox hath long before this tyme told you my resolution on that pointe ; quhereupon you have bestowed so much skribling and railing, covertlie against me and avowedlie against the Chancellaire. Yett can I not abstaine pairtly for satisfaction of my owne hairt, and pairtly for satisfieyng you and your allye with reason (if reasons can satisfie you), to send you these fewe observations upon your letter.

“ In a bussinesse of this nature I have nothing to look unto but, first, my conscience before God, and nexte my reputation in the eyes of the quhole world. If I can find one man stricter then another in pointe of examination, I am bound in conscience to employe him in it ; and when in my conscience I have sett downe a course, to change it at the instance of the pairtie, without any other reason but becaus they will have it, it waire litle for my honour. That I was too faint in not resisting the superbe¹ judges willfullnes, I confesse I ever was and will be faint in resisting to the tryal of murther,

¹ So MS.

and as bold and earnest in prosecuting the tryal thair of. And as my proceedings from the beginning of this bussinesse have bene onlie governed by the rewle of my conscience, as the Searcher of all hairts knowes, so must I to my great regraitte confesse and avowe that from the beginning of this bussinesse both your father in law and ye have ever and at all tymes behaved yourselves quite contraire to the forme that men that wishe the tryall of the veritie ever did in such a cace. And how farre it is now out of tyme, after that the Chancellaire hath served me more then thirteene yeares with all honour and faithfulness, having ever been a Regaliste, to rake up from the bottomelesse pitt the tragedie of my poor mother, I appeal to your own judgment. Then quhy shuld I be thus neidlesslie vexed? This warrand stretches onlie to examination, whairin no innocent persons can gett wrong; and since the Chancellaire sees himself so suspected, is it to be thought that he daire utter any partialitie? And if ye will neid suspecte the worst (which is nather likelie nor possible), waire it not a more handsome way for my reputation that he might be privatelie advysed to be silent when he waire thaire except in yeas or noes; or ellis in regard of his aage and infirmities, and his manie bussinesses in the terme tyme, to mak his apparance but verie seldom? and so forbear to give anie opinion, as not acquainted with the course of the bussinesse. And as for the external show of my election of him in disfavoure of you, first, I am sorrie

the world shuld see you excepte against so grave a man ; and nexte, the more severe choice I mak of persons for examination, the more it is in your favour, if honour and tryal of innocence be your end.

“ Now, as to your motion in¹ putting all the judges in this warrand, if ye meane for tryall in lawe, I never ment it otherways ; but if ye meane for examination, it is more then absurde. And whairas ye alleadge that greate counsellors waire never employed in the examination of a thing of this nature, I say the quyt contrarie is trew, when as the circumstances or articles of the tryall may reflecte upon anie great personages ; in which cace the juges daire never presume to medle without better assistance. To conclude then, I never had the occasion to showe the uprightnes and sinceritie that is requyred in a supream judge as I have in this. If the delation prove false, God so deale with my soule as no man among you shall so much rejoyce at it as I ; nor shall ever spaire, I vowe to God, one grain of rigour that can be streatched against the conspiratours. If otherwayes (as God forbidde), none of you shall more hairtelie sorowe for it ; and never king used that clemencie as I will do in suche a cace. But that I should suffer a murther (if it be so) to be suppressed and plaistred over, to the destruction of both my soule and reputation, I am no Christian. I never meane wittinglie and willingly to beare anie man’s sinnes but my own ; and if for serving my conscience in setting downe a

¹ So MS.

faire course of tryall I shall lose the hairts of that familie, I will never care to lose the hairts of anie for justice saik.

“Faile not to showe this letter to your father in law, and that both of you reid it twice over at least; and God so favour me as I have no respect in this turne but to please him in whose throne I sitte. And so fairwell; praying the author of all veritie to mak the cleare veritie to be plainlie manifested in this cace.

JAMES R.”¹

This letter must clearly have been written after the appointment of the Commissioners, and probably not later than the 19th of October; for had it been written later, the king could hardly have failed to allude to a proceeding of Somerset’s of which he was informed in a letter from the Commissioners, dated the 18th, and which had a very suspicious appearance.

On the 16th of October, Somerset, being still at large and still holding the seals of his office, sent a pursuivant, accompanied by a constable and a locksmith, to the house of Weston’s son, with a warrant “to search for bonds and writings concerning Mrs. Hynde;” under pretence of which, “divers writings concerning Mrs. Turner” were seized and carried away. Mrs. Turner being at the time the king’s prisoner on a charge which was under investigation by the king’s Commission, the Commis-

¹ Lamb. MSS. 930, 91. Docketed, “ADRIANE MOORE. JHONNE HOLLAND.”

sioners considered this so great a contempt that they at once ordered both him and the Countess to keep their several chambers, and see nobody except their own necessary servants. And when they found that, in spite of this, the very next morning Somerset had endeavoured to get a message conveyed to Mrs. Turner, they committed him to close custody under the charge of Sir Oliver St. John.

All this they reported to the king on the 18th, and the next day received a message from him signifying approval of their proceedings, and encouraging them to prosecute the business.¹

On the 19th Weston was brought up for trial, but "refused to put himself upon the countrye as the lawe required, and therefore in lawe stood mute." Upon which the nature of the *peine forte et dure*, which was the alternative, was described to him, and the trial was adjourned for four days, in hope that he would think better of it. Meanwhile, that the large audience, including "some of the nobilitie and many gentlemen of great qualitie," which had gathered to hear the proceedings, might not be altogether disappointed, the Judges "thought meete . . . to have openly and at large redd the confessions of the said Richard Weston, as the *Earle of Somersett and the Countesse*, and Mrs. Turner, without sparinge of any of them, or omitting any thinge material against them (the necessitie and course of the evidence requiringe it, for that it

¹ Lord Fenton to the Lord Chancellor, 19th October 1615.

appeared thereby that the said Richard Weston was procured and warged by some of them); to the great satisfaction of the auditors (which we might well discern by their gesture), and to the great honour of yo^r Ma^{tie}, and your princely zeale to justice.”¹

With this proceeding the Commissioners (except in so far as Coke was one of them) had nothing to do. It was the act of the Judges of the King's Bench, who reported it to the king the same day. I leave to lawyers the question how far it amounted to a prejudgment of cases which they were afterwards to try. The point with which I am concerned is the new position in which it placed the case of the Somersets. Neither of them had as yet been either accused or examined; they were as yet only suspected; and the evidence against them was in preparation and incomplete. It is true that the evidence now produced for the satisfaction of the audience was no more than must have been produced, had the trial proceeded, for the conviction of Weston; but the production of it in this irregular manner by authority of the judges, whether justifiable or not in law, could have only one interpretation in public opinion; it was a judicial declaration that the Somersets were seriously implicated in the murder: and whatever explanations they might give when called to their answer, it was impossible after this that they could be cleared without public trial.

The king, having received the Judges' letter

¹ The Judges of the King's Bench to the king. S. P. Dom. James I.

reporting all this, wrote to Coke the next day (20th October) approving of what they had done and what they proposed to do; but because he concurred in opinion with them "that Weston, having neither lands nor goods to loose" [the ordinary motive of standing mute being for the benefit of heirs to save lands and goods from confiscation], "by practice hath bene wrought to this obstinacy, perhaps upon this sinister suggestion, that the accessory cannot be called in question unlesse the principal be first condemned,"—directing the Commissioners to make use of the interval in examining Weston himself "if no man had practised with him" (to induce him to stand mute), and also "all other parties against whom they might conceive just suspicion; namely, the Earl of Somerset and the Lady his wife; whom in like manner they were to examine on those points mentioned in the former letters of the Commissioners,"—meaning, I suppose, the abstraction of the papers concerning Mrs. Turner. "In this particuler," he concludes, "you may remonstrate unto them how unworthy a thing it is, in the state they now stand, to heape sin upon sinne, and to charge their consciences with the apparent danger of the damning of the soule of that miserable wretch, who as he hath bene the murtherer of another so now wilbe the murtherer of himselfe; wherby let them know that they can little releive themselves, if they shalbe found guilty, for w^{ch} we professe we shalbe hartely sorry. This being our resolution, to use all lawfull courses that

the foulness of this fact be sounded to the depth ; that, for the discharge of our duty both to God and man, the innocent may be cleared, and the nocent, as the nature of the offence shall deserve, may severely be punished."

This was to the Judges. On the 21st he wrote to the Commissioners much to the same effect ; directing them to examine the Countess, and to confront Weston with her and Mrs. Turner, and with the Earl himself if needful ; also to examine Helwysse and Sir Thomas Monson ; and "earnestly requiring them, as they tender both his conscience and honour, to use all means for the full clearing and manifestation of the verity in this business, though they be not bound by law to do it—so that they do nothing against the law, wherein he must trust to their knowledge and integrities."

To the proposal, however, of re-examining Weston, and confronting him with the others, the Judges objected ; alleging that "a re-examination or confronting after a publique conviction of the partie delinquent was not such as had been used by the course of his laws ;" and therefore that "the Earl and Countess would not be examined till after Monday," on which day the trial was to proceed. And the Commissioners writing at the same time to the same effect, the point was not further pressed.

On Monday, the 23d of October, Weston was brought up again, and, having consented to put himself upon his country, been tried, convicted, and sentenced, was hanged on the 25th. The same

afternoon, and again on the 28th,¹ Somerset was himself examined; and, though no record remains of the particulars of the examination on either day, the important paper which follows gives us the result:—

“THE COMMISSIONERS’ REPORT TO THE KING
TOUCHING THE EARL OF SOMERSET.”²

“We are of opinion that there is vehement suspicion, and that the matter uppon consideration of the examinations and testimonies is preignant against the Earle of Sommerset for being accessorie to the poisoning of S^r Tho. Overbury before the fact done. And we had resolved to have committed the Earle to the Tower before his Ma^{ties} comming to Whitehall, if he had not had the custodie of the seales and other ensignes and ornam^{ts} of the king’s speciall favor. And, the saide seales and ensignes being taken from him, we hold it necessarie that the said Earle be committed to the Tower.

“T. ELLESMERE, Canc.

“LENOX.

“ZOUCHE.

“EDW. COKE.”

This report, though it appears to be the original, being fairly written by Coke, and bearing the signatures of the several Commissioners in their own handwriting, has no date. But the allusion to the

¹ Camden.

² This is the docket, and is in Coke’s own hand.

king's coming to Whitehall, coupled with Camden's note of the day when Somerset was deprived of the seals and sent to the Tower, enables us to fix the date within a day or two. Sir R. Winwood, writing from Theobalds on the 30th of October, directs the Commissioners to attend his Majesty at Whitehall at three o'clock the next day; and we learn from Camden that the Earl was deprived of the seals and staff, and committed to the Tower on the 2d of November.

So far all was simple, natural, and straightforward on the king's part. A prisoner in the Tower had been murdered. The murderers and their accomplices were to be discovered and brought to justice. A commission was appointed, with instructions to search the matter to the bottom, and with all the powers requisite for the work. They were left to pursue the inquiry in their own way; and when they reported that there was evidence implicating the Earl of Somerset as an accessory, they were at once authorised to commit him to the Tower,¹ and he was committed accordingly.

The Earl on his part saw well that his hope of escape lay in his personal influence over the king; and having tried in vain to recover it by appeals to his affection in tones of complaint and reproach, he now bethought himself of another device to bring

¹ November 2. Somersetto sigilla adimuntur: baculum Camerarii Regii insigne deponere et se Delegatis sistere per Baronem Wottonum jubetur; a quibus ad arcem Londinensem in custodiam mittitur, Georgio Moro arcis præfecto constituto.—Camden.

him to a private hearing. He intimated (15th November) that he had some important State secret to communicate. And when the king replied by directing the Commissioners to hear his communication and report it,¹ he declined to make it to *them*; alleging that it did not concern the criminal part of the business;—and requested an interview with Lord Knolles and Lord Hay.² To this the king, after considerable delay, yielded. On the 18th³ of December Lords Knolles and Hay were privately sent to speak with him; and it must have been either upon their report, or upon some subsequent message of the same kind,—and including among other things a request reasonable enough according to modern notions, but contrary to practice then, to be acquainted beforehand with the charges against him,—that the king on the 29th of December sent for Sir George More and dictated his reply; which Sir George, it appears, set down in writing, in the paper recently discovered and now to be published. It will be found, I think, to be in perfect accordance with all the king's proceedings in the matter both before and after. The manner is earnest and natural, and so characteristic of the man that we need not hesitate to accept it as a faithful report of the words actually spoken. For proof of this, I must refer to the whole paper. It will only be

¹ Sir G. More to the Commissioners, 18th November. Statement of Sir G. More, 22d November.

² Ellesmere and Coke to the king.

³ December 18. Baro Knolles et Baro Haye submissi a Rege ad Somersetum.—Camden.

necessary here to state the substance of the message; which, nakedly expressed in modern language, amounts to this :

Sir George More was to inform Somerset that nothing had been done against him which justice did not absolutely require; that no exception could be fairly taken to any of the Commissioners; that whatever communications he wished to make he could make at any time through them; that his committal to the Tower was according to custom in similar cases, and was a measure which, in the face of their report as to the evidence, the king could not have interfered to prevent without exposing himself to suspicion of complicity; that if he and his wife were innocent, they need not either of them fear trial, which would clear them; that even if they should be found guilty, and yet the offence not appear manifest, he would not let the sentence be executed; that if they were guilty, they must confess their crime before they could ask for mercy, but upon that condition need not think their case desperate; that to acquaint him beforehand with the things that were to be laid to his charge was not in the king's power even if it were otherwise allowable, for it was more than he himself had been permitted to know; and finally, that if Somerset had any favour to ask hereafter, he must make it known through the Lords Commissioners, and not seek any other means.

If there be any difference between the tone of this message and that of the letter written two or

three months before, it is explained by the changes which had come over the aspect of the case in the interval. When he wrote that letter, the king had only heard that Somerset was so far touched that it would be necessary to examine him. He had since been informed, first by the Commissioners in the beginning of November, that there appeared upon examination to be "vehement suspicion" and "pregnant matter" against him as an accessory before the fact, and afterwards by Coke (27th November) that the evidence against him was "sufficient:"—meaning of course sufficient to justify conviction. "He was not proceeded withall," Coke writes in reporting the trial and conviction of Franklin, one of the subordinate actors, "untill he had discovered sufficient matter against the Earle of Sommerset, and that I had fortetified his testimonie by other witnesses, which by God's providence I attained unto."¹ Somerset therefore stood now towards the king in a very different position from that in which he stood then.

Nor is it improbable, on the other hand, that, though the king still upheld the authority of the Commissioners, leaving them to pursue the inquiry in their own way, and being even content to remain ignorant of the particulars of the evidence on which they were proceeding, he was less disposed than he had been to place absolute reliance on their discretion and sagacity. For in the course of the trials which had been going on, Coke (who in his double

¹ Coke to the king, 27th November 1615.

capacity of Commissioner to investigate and Chief-Justice to try, was in effect the manager of every thing), had shown so eager and indiscriminate an appetite for evidence on one side, and such precipitation in announcing to the public from the Bench the import of what he had in store, that a duller man than the king could hardly have failed to suspect his judgment. When he wrote the letter last mentioned, he had just been announcing in open Court, that, "*Knowing so much as hee knew*, if this plott had not been found out, neither the Courte, cittie, nor many particuler houses had escaped the malice of this wicked crue."¹ In that letter itself, the new evidence which he described as "sufficient" against the Earl of Somerset was by his own showing insufficient. It was Franklin's confession of a conference with the *Countess*, in which the Earl was *supposed* to have taken part. But it appeared upon the very face of it that Franklin never *saw* the Earl; and though he believed him to be in the adjoining room and taking part in what passed, he could not have *known* that he was there at all, much less *what* part he took. And a few days later, having in the meantime sent Dr. Whiting to prepare Franklin for death, and obtained from him (in answer apparently to leading questions suggested by himself²) offers of

¹ "The effect of Franklin's arraignment," S. P. Dom., 27th November.

² For instance, "*Being asked whether he should not have had an hundred pounds to be employed to the Palsgrave and the Lady Elizabeth*, answered, 'An hundred? Nay 500, I will not say how much.' . . . *Being told* that the queene had bene extraordinarily sicke and payned, and her yong children taken away, sayd he, 'Soft, I am not come to it yet.' . . . *It was sayd to him* that it was not possible so yong a lady as the Lady

many portentous disclosures, he not only concluded in his own mind that an extensive Popish poison-plot had been on foot,¹ but made a second intimation to the public from the Bench, preparing them to expect some revelation of the kind. "For other things," he said, "I dare not discover secrets; but, though there was no house searched, yet such letters were produced *which makes our deliverance as great as any that happened to the children of Israel.*"

This intimation was given out in Court on the 4th of December; when Sir Thomas Monson, having been arraigned and pleaded not guilty and put himself upon God and the country, was suddenly removed from the Court without further proceeding (though not without a declaration from the Chief Justice that his protestations of innocence showed him to be indeed a very atheist, "the proofs being so plain that were to be produced against him"²) and sent to the Tower. And it may very well have been upon that occasion that the King desired to

Somerset should contrive such a plott without some helpe. 'No, no,' said he, 'who can thinke otherwise? for the lady had no money; but the money was had from the old lady,' etc.

¹ "And where your M. wryght that you would gladly knowe whether this newe discovery concerneth only this villany, or if it touch me in some higher nature, may it please your Ma^{ties} to be advertised that it concerneth not your Ma^{ties} own royal person, nor the Prince that now is, but some overture is made of some wicked attempt (besides this villany) against some that be dere and nere unto you, and besides some probable suspitions are given of some other persons, I will not say of what sexe they be, to have had an hand in this crieing syn of poisoning."—S. P. Dom. 83, 344.

² Sir J. Throckmorton to Mr. Trumbull, 20th December 1615. See *Court and Times of James I.*, vol. i. p. 384.

see with his own eyes the proofs that *were to be* produced. Which it seems he did. For one of the grooms of the Privy Chamber, having reported the fact in a letter to Sir William Monson (Sir Thomas's brother), and being called in question for it, made the following declaration as to his authority for the statement : " He did heare the Lord Bishop of Bath and Wels say, that his Ma^{tie}, understanding that Sir Thomas Mounson was to receive his triall, did send to my Lo. Chief Justice for all the evidence or examinations which was to be delivered against S^r Tho. Mounson ; and that his Ma^{tie} received the same, and did curiously consider every circumstance ; and further, the Lo. of Bathe said that his Highness found many probable circumstances, forth of all which he could not make one unaunswerable argument to convince Sir Thos. Mounson ; and that he would not condemne him if he were of his jurye. And further, the said Lo. Bishop said that thereupon the king deferred his triall, to see what other evidence would come against him."¹ Now, though it is true that Coke committed the writer of the letter to the King's Bench prison for slandering the king in writing it—" which giveth not an action," he said, "*de scandalis magnatis*, but *de scandalis optimi et maximi*,"—I do not find any ground for suspecting that the statement was untrue ; but find, on the contrary, that it furnishes a natural and sufficient explanation of the further proceedings in the

¹ Examination of John Lepton (taken by Coke), 5th February 1615-6. —S. P. Dom., vol. lxxxvi. p. 31.

case of Sir Thomas Monson; which have been thought inexplicable without supposing some unrevealed mystery, of the existence of which we have no other evidence whatever.

If this was so, that the evidence against the Somersets likewise might turn out to be such as either would not procure or would not justify a conviction, would naturally at this time present itself to the king's mind as a possibility. But however that might be, a public trial, after what had passed, was in their case unavoidable. It had been postponed hitherto because the Countess, who, as most directly implicated, was to be tried first, was with child. She was delivered of a daughter on the 9th of December; and on the 19th of January both she and her husband were indicted for the murder, and a true bill found against them.¹ I presume, therefore, that the arraignments were then expected to be proceeded with at once, and would have been so, but for a fresh question that came in the way, relating to some secret negotiation with Spain in which Somerset had been engaged, and requiring the presence of Sir John Digby, then resident ambassador there. This made it necessary to suspend the further proceeding for the murder till his return. And before he arrived a dispute between the Lord Chancellor and the Lord Chief-Justice on a question of jurisdiction, then a serious illness of the Lord Chancellor himself, together with some other accidents which I need not stay to describe.

¹ Camden. Lord Carew's Letters (Camden Society), p. 23.

caused further postponements; so that it was the 24th of May before the trial came on.

Justice, however, did not suffer in the end by the delay. For in the meantime Coke's threat that he would resign his place if the king were acquainted beforehand with the articles of accusation, appears to have been either forgotten or withdrawn. And indeed it is so hard to imagine any reasonable ground for the objection, that I think the king must have misunderstood him. Had he threatened to resign his place as Judge if required to do the work of a solicitor for the prosecution, or to give, "before the party came to his public trial," an opinion upon the merits of the case, he would have had good reason, and anticipated by a generation or two a sound and salutary rule of judicial procedure. But on what principle either of reason or law he could maintain that the king, who was *not* to be judge and who *was* to be prosecutor, ought to be kept in ignorance of the grounds of the prosecution, I cannot guess. Whether he meant it or not, however, and whatever his reasons were, he did not carry the threat out. For before the trial came on the king did become acquainted with the articles of accusation, took a critical interest in sifting the evidence, agreed to strike out a good deal of it, and to reduce the charge into accordance with so much of it as seemed fair and sound, and yet the Chief-Justice continued to serve in his place. The truth is, that since it was the business of the Attorney-General in cases like this to conduct the prosecution

in Court, it was necessary at last that he should see the examinations; and the king's attorney could not object to give information to the king. In the proceedings against Weston, Mrs. Turner, Hellwysse, Franklin (now all tried and hanged), and Sir Thomas Monson (not yet tried though already declared guilty), Bacon had no part, and, for anything that appears, knew no more of the case up to the end of December than was public.¹ But in January he was called on to draw the indictments, and therefore to examine the evidence against the Somersets; and in an interview with the king, which I gather to have been on the 19th, he made his first report upon it.

This report again altered the aspect of the case in some degree. For to Bacon the evidence did not appear nearly so conclusive as it had done to Coke. "The evidence upon which my Lord of Somerset standeth indicted (he said) is of a good strong thread, considering that empoisoning is the darkest of offences; but the thread must be well spun and woven together."² And, remembering no doubt how the trials of Essex and Raleigh had been conducted, he strongly urged the importance of choosing a Lord High Steward with judgment and authority enough to cut off digressions, and also of taking measures not only for setting forth the evidence in its proper order, but of keeping it

¹ "To have a man chased to death in such a manner (as it appears now by matter of record, for other privacy of the case I know not), etc.—Charge against Lumaden, etc., in the Star Chamber, 10th November 1615.

² Bacon to the king, 22d January 1615-16.

within its proper bounds; and, with that view, of directing the Lord Chancellor to assist in the preparatory conferences as well as the Lord Chief-Justice,—a precaution of which the king was by this time very well able to understand the motive and the expediency.

This advice was given to the king by Bacon at a personal conference on the 19th of January (as I understand it), and repeated by letter on the 22d. But the same causes which shortly after postponed the arraignment would naturally postpone the preparations; and it is not till the middle of April that we find any further correspondence about them. Several examinations had been taken in the meantime by the king's direction in search of evidence concerning the Spanish negotiation; and several witnesses had been examined by Coke on his own account in hope of finding some proof of the great Popish poison-conspiracy which he thought he had detected, and the discovery of which he had rather prematurely announced three months before from his seat on the Bench. But nothing of importance came of either; nothing of the first which was thought sufficient to found a charge upon,¹ nothing at all of the second. These things therefore being dropped, the preparations for the trial were resumed.

With regard to the part which the king per-

¹ Whether Somerset had committed high treason in revealing secrets to the Spanish ambassador, appears to have been the point in question. See "Notes for an Indictment" (drawn up by Coke). S. P. Dom., February (?) 1615-16.

sonally took in these, it is of course impossible to give an account of it which one can assume to be complete, because much of the business was transacted by word of mouth, and of the letters which passed we have no complete collection. But enough remains to justify an inference, in the absence of all evidence to the contrary, as to the spirit in which he acted.

Under this head there are two principal questions to be asked: First, What part did he take in the selection of the evidence to be used; and what directions did he give for the manner in which it was to be handled, in case the Earl stood upon his innocence? Secondly, What was the nature and object of certain private communications which were made to the Earl by his authority, in hope of inducing him to confess the crime?

1. With regard to the first, he required from his Attorney-General an account of the plan upon which he proposed to conduct the case, and a sketch of what he meant to say; and he agreed, upon the Attorney-General's own suggestion, to give certain express directions to him and the other counsel employed; which were to this effect: In urging the charge they were to abstain from all "bitterness and insulting," remembering that their part was to make Somerset "delinquent to the peers, not odious to the people;"¹ neither were they "to expatiate or digress upon any other points

¹ Bacon to Villiers, 6th May.

that might not serve clearly for probation or inducement of that point whereof he was accused.”¹ In accordance with this principle, he expressly approved of Bacon’s intention to omit altogether, as irrelevant, frivolous, or inconclusive, a great part of the evidence which Coke had collected. And in one place he took exception himself to a passage which it was proposed to produce in support of the charge, on the ground that the words did not naturally bear the meaning put upon them; a fact which I collect from two or three incidental allusions scattered through the correspondence, but important enough, when the question is in what spirit he was proceeding, to be worth bringing out in detail. The chief difficulty, it must be remembered, which the case presented was to find *direct* evidence of the Earl’s personal complicity. The presumptive evidence was strong; but if he really was a consenting party to the murder, he had taken care to keep himself so much out of sight, that no one could be found who had seen him do or heard him say anything which was conclusive of the fact. The evidence upon which Coke had been content to rely for this rested altogether upon a presumption. The Countess had been seen to go into an adjoining room and to return out of it, having (as was *supposed*) taken instructions from the Earl, who was *supposed* to be within. But though it is true that other evidence was produced to prove that he was

¹ “The Heads of the Charge;” marginal note in the king’s own hand. Bacon’s *Works*, vol. vi. p. 97.

there at the time, no one could say that he heard the instructions given. Not to add that, as all this took place long after the death of Overbury, and related only to measures for evading discovery, the clearest proof that the Earl was *then* in guilty collusion with the Countess could have proved no more than that he was an accessory *after* the fact. There was, however, another piece of evidence which would have gone much nearer to prove the Earl's personal complicity in the murder, if it could have been well established. While Overbury was in the Tower, the Countess (then Lady Essex) had written a letter to the Lieutenant, cautioning him as to the disposal of certain tarts; and one sentence ran thus: "*If he should send this tart and jelly and wine to your wife, then you must take the tart from her and the jelly, but the wine she may drink it, if she will, for in that there are no letters I know; but in the tart and jelly I know there is,*"¹ etc.

Being asked whom she meant by "he," she said she meant Somerset.² If so, it was a strong piece of evidence against him; for it was good proof that the Countess at that time thought him likely to send tarts which she knew to be poisoned; and it was proposed to use it in that sense and for that purpose. But when the king came to look at the words with the context, it struck him that this was not the natural interpretation of them. He there-

¹ S. P. Dom. 86. 6; printed in Gardiner's *History of England*, 1603-1616, vol. ii. p. 387.

² 8th January 1616, Gardiner *id. ibid.*

fore referred the point to the Commissioners for further investigation; observing that "that evidence, as it standeth now uncleared, must *secundum leges sanæ conscientiæ* be laid aside."¹ In pursuance of this direction, Lady Somerset was examined again,² and when she said that she meant by "he" not Somerset, but Overbury, that passage was withdrawn.³

Now, when we remember that the king was all this time very anxious that the prosecution should be justified by the verdict (for in those days the failure of a Crown prosecution was regarded as a dishonour to the Crown), we cannot but conclude that the part he took in the preparations for the trial was governed by a desire to be just and fair to all parties—at least until we find him doing something irreconcilable with that supposition; of which I have not myself been able to discover any traces.

2. With regard to the private communications with Somerset, it might perhaps have been wiser to let them alone; though, without knowing what effect they may have had in keeping him from extremities, it is hard to affirm even that with confidence. But though the policy was questionable, the motive, so far as I can see, was fair, and the object good.

¹ Bacon to Villiers, 13th April.

² Bacon to Villiers, 2d May.

³ "That part of the evidence of the lady's exposition of the pronoun (he) which was first caught hold of by me, and afterwards by his Majesty's singular wisdom and conscience excepted to, and is now by her re-examination retracted, I have given order to Serjeant Montagu (within whose part it falleth) to leave it out of the evidence."—Bacon to Villiers, 5th May.

The public declarations of the Earl's guilt (for which the king was no way responsible) having been so strong, while the proofs appeared on inspection to be in some respects so weak, the result of the proceeding and its effect on popular opinion was a matter of just anxiety; and he no doubt wished extremely that Somerset (if guilty, as he supposed him to be) could be induced to relieve him from the difficulty by a confession. But what inducement had Somerset to confess, if ever so guilty? Suppose him to have been privy to the murder before it was done; still he knew that, having kept so much out of the way, the evidence to connect him with it could not be much or direct. He knew, therefore, that he had two chances of escape. The king—either upon some misgiving as to the force of the evidence, or some fear of meddling with so powerful a man, or some remnant of affection for one who had so lately and so long been his bosom friend—might shrink from bringing him to trial. And again, if brought to trial, he might be acquitted. Upon what motive should he throw away two such chances of escape? The only motive that could be presented to him was a hope that, if he voluntarily confessed his guilt, he would have a better chance of mercy than if he stood upon his innocence and were found guilty upon the evidence.

Now, that the king was from the first strongly inclined to mercy, would have been glad of an excuse for it, and believed (as in those days most people did) that a clear, voluntary, and penitent

confession furnished such an excuse, can hardly be doubted, I think, after the letters and messages which I have already quoted. Had it been doubtful before, this message of the 29th of December now brought to light would have set the doubt at rest; for it contains an intimation of what such a confession might deserve, almost amounting to a promise. "As for himself," he was to be told, "there is no cause why he should desire not to come to trial, if the proofs be so pregnant that they require it; for, being innocent, upon trial he will be cleared, and so being justified shall receive no disgrace; as with many great persons it hath fallen out, which have been committed to the Tower, and being tried have been cleared for the like offence. But if he be guilty (as God forbid), then must he take a course by his humble confession to plead for mercy; I being to follow the example of Almighty God, who doth not forgive sins till they be confessed and sorrowed for; no more can I shew mercy where innocency is stood upon, and the offence not made known by confession unto me." Upon that condition I have myself no doubt whatever that the king did at that time (which was long before any attempt had been made to practise upon his fears) secretly intend to use in Somerset's favour his prerogative of mercy; and what he secretly intended to perform, he wished Somerset to be secretly encouraged to hope. He could not give a direct and explicit promise, because a direct promise to pardon him if he confessed, would have seemed

like a bargain and a bribe to purchase the confession. But he authorised certain persons (the Commissioners themselves first, and afterwards some private messengers) to suggest the hope to him, not as a message from him, but as from themselves. Of the manner in which the Commissioners performed the task we have two reports, one written by Coke and the other by Bacon, but both without date, and so little alike that it is doubtful whether they refer to the same occasion. They agree, however, in this—neither represents the Commissioners as having said anything false or meant to mislead, and both represent what was said to have been said in vain, for any effect that it seemed to take on Somerset. One effect, however, it had. It convinced him at last, that unless he could find some new means of diverting the king from his purpose, he would really have to stand his trial. It was rumoured in London about the middle of May, that finding this to be so (which he had not believed before), he had offered to reveal something which it greatly concerned the king and the State to know, and desired to see the Commissioners for that purpose.¹ And it is certainly true that after the king had on the 9th of May, and again on the 13th, sent private messengers to him in great secrecy, to renew his former assurances in a form coming still nearer to a promise,² he did talk of making an im-

¹ Edward Sherburn to Dudley Carleton, 17th May 1616.

² "Ye shall therefore give him assurance in my name, that, if he will yet before his trial confess clearly unto the Commissioners his guiltiness

portant disclosure of some kind ; though from the terms of the king's answer I infer that it was not an offer of information which it concerned him to possess—that was the device which he had tried before unsuccessfully—but a threat of disclosing something which it concerned him to keep secret. The exact date of it I cannot ascertain ; but it cannot have been many days before the trial, and, being his first attempt (as far as I can find) to work upon the king's *fears*, it is important to know how it was entertained. The following confidential letter from the king to Sir George More, through whom the threat was sent, furnishes on this point evidence of the most conclusive kind ; and though it is not new in itself, it will probably be sufficiently new in this connection to be worth quoting at full length.

of this fact, I will not only perform what I promised by my last messenger both towards him and his wife, but I will enlarge it, according to the phrase of the civil law, *quod gratia sunt amplianda*. I mean not that he shall confess if he be innocent, but ye know how evil likely that is, and of yourself ye may dispute with him what should mean his confidence now to endure a trial when, as he remembers, that this last winter he confessed to the Chief-Justice that his cause was so evil likely as he knew no jury could quit him. Assure him that I protest upon my honour my end in this is for his and his wife's good. Ye will do well likeways of yourself to cast out unto him, that ye fear his wife will plead weakly for his innocency, and that ye find the Commissioners have, ye know not how, some secret assurance that in the end she will confess of him ; but this must only be as from yourself, and therefore ye must not let him know that I have written unto you, but only that I sent you private word to deliver him this message."—*Archæologia*, vol. xviii. p. 352.

Whether the Commissioners had any such secret assurance I cannot say. If not, this last direction is the most questionable part of the transaction. It is to be remembered, however, that the object of it still was, though by a false alarm, to get at the truth ; nor was there any danger of its leading to anything else ; for, if Somerset knew that he was not guilty, he knew also that his wife would not confess of him.

“GOOD SIR GEORGE,—I am extremely sorry that your unfortunate prisoner turns all the great care I have of him, not only against himself, but against me also, as far as he can. I cannot blame you that ye cannot conjecture what this may be, for God knows it is only a trick of his idle brain, hoping thereby to shift his trial; but is easy to be seen that he would threaten me with laying an aspersion upon me of being in some sort accessory to his crime; I can do no more (since God so abstracts his grace from him), than repeat the substance of that letter which the Lord Haye sent you yesternight, which is this: if he would write or send me any message concerning this poisoning, it needs not be private; if it be of any other business, that which I cannot now with honour receive privately, I may do it after his trial, and serve the turn as well; for, except either his trial or confession precede, I cannot hear a private message from him without laying an aspersion upon myself of being an accessory to his crime, and I pray you to urge him by reason, that I refuse him no favour which I can grant him without taking upon me the suspicion of being guilty of that crime whereof he is accused; and so farewell. JAMES R.”¹

What followed upon this I cannot make out with certainty, for want of exact dates. But it seems that, upon the very eve of the trial, More reported to the king a new difficulty. Somerset had been seized with some “strange fit,” either

¹ *Archæologia*, vol. xviii.

was or pretended to be either mad or unable to move, and what was to be done? In answer to which "strange news," the king directed him to let Lord Hay and Sir Robert Carr (who had already been sent) speak with him first; and "when that is done," he added, "if he shall still refuse to go, ye must do your office, except he be either apparently sick or distracted of his wits; in any of which cases ye may acquaint the Chancellor with it, so that he may adjourn the day till Monday next, between and which time,¹ if his sickness or madness be counterfeited, it will manifestly appear."²

His concluding words are, "If he have said anything of moment to the Lord Haye, I expect to hear of it with all speed; if otherwise, let me not be troubled with it till the trial be past." This therefore would seem to have been the last act of this secret negotiation, of which I have noticed, I think, all the particulars which can be said to be known. For Weldon's picturesque account of Sir George's midnight visit to Greenwich, though not materially differing in substance from my version thus collected, is difficult to reconcile with it in detail; these letters of the king's own hand, which so conclusively establish the fact that Somerset had uttered some threat which he thought would frighten him, being scarcely consistent with a story which represents the whole transaction, from the announcement of the threat to the arrangements made for meeting it, as having passed at a secret

¹ So in the original.

² *Archæologia*, vol. xviii.

personal interview between the king and More in the middle of the night immediately before the trial. And indeed we have other evidence to show that the apprehension of some outbreak of the kind on Somerset's part was of rather earlier date. In a paper in Bacon's handwriting, which appears from internal evidence to have been written three or four days at least before the trial, the following question is proposed as "a question legal for the judges":—"Whether, if my Lord of Somerset should break forth into any speech of taxing the king, he be not presently by the Lord Steward to be interrupted and silenced; and, if he persist, he be not to be told that if he take that course he is to be withdrawn, and evidence to be given in his absence; and whether that may be, and what else to be done?" I am inclined to think, therefore, that Weldon confounded two separate stages of the business, and that Somerset did in fact resort to the threat when he found that the king was in earnest, and when the threat failed to move him, resorted to the pretence of sickness or madness.

Whether the opinion of the Judges was taken upon the question suggested by Bacon, or, if it was, what opinion they gave, or whether any preparations were made to act upon it, I cannot undertake to say. But the occasion did not arise. When Somerset consented at last to go, and came to the Bar—whether it were that he was unwilling to shut the gate against mercy, or that he had been warned that if he broke out into invective against the king

he would be forcibly silenced and removed ; or (which is as likely as anything else) that, though he had used the threat in hope to serve his turn by it, he had really nothing to say,—certain it is that he did neither say nor hint anything about the king whatever. He asserted his innocence confidently, and defended himself boldly, and, after a trial which lasted twelve or thirteen hours, was found guilty by all his triers severally, no one dissenting. And when I have added that the king, who remained at Greenwich all that day, was observed to be very restless and uneasy until he heard that the trial was over and no attack made upon himself, I believe this account of the part he took in the proceedings against Somerset for the murder of Overbury will be found to be complete, in so far as it can be collected from evidence that can be properly called authentic.

In excluding from it all particulars derived from more doubtful sources, I do not mean to imply that all such are without foundation. Many of those supplied by Weldon and Roger Coke and Wilson are probable enough in themselves, and might be combined with my narrative quite well. But I wished first to set forth in order those facts which cannot be doubted ; after which we shall be better able to see how many and how much of the rest will stand with them. Sir Anthony Weldon was clerk of the Board of Green Cloth, was living about the Court all the time, and professes to relate things which he had himself seen and heard, or

received from those who did see or hear them. Roger Coke belonged to a later generation, but his father was Sir Edward Coke's son, so that he was a legitimate inheritor of traditions from a good source. Arthur Wilson was scarcely a man at the time; but when he wrote his history he was no doubt within reach of many persons who could give him valuable information. But Weldon wrote from recollections of some standing, and those who have moral endurance to read his book through will hardly believe that he could report anything at any time without large infusions from his own very savoury imagination. Roger Coke could but tell us with regard to the secret history of these trials, as much as he remembered of what his father or his uncles remembered of what their father had told *them*. And Wilson professes to speak from reports, for which he does not profess to vouch. Whenever therefore the story told by these writers is irreconcilable with the evidence of letters written at the time in the course of business, or with warrants still extant, or with statements publicly made by those who had means of knowing, or even with contemporary letters reporting the passing news of the day, we need not hesitate to set it aside, or to bring it into harmony with them by some conjectural correction. Thus Weldon's statement that the discovery of the murder came first from an apothecary's boy, who revealed it to the English agent at Brussels, may perhaps be true. It may have been in this way that Winwood became acquainted

with the rumour which he communicated to the Earl of Shrewsbury. But that Winwood had known the fact before from the Countess of Shrewsbury, who had been voluntarily informed of it by Helwysse, and that he had acquainted the king with it, and that they had all kept it close until the agent at Brussels came over with his report, is as much less probable than the account of the matter given by Bacon in Court, as it is less in accordance with the documentary evidence still extant. So again, Roger Coke's account of the commencement of the judicial proceedings may perhaps be correct thus far. The king's messenger may have reached Coke's chamber at midnight, Coke may have received the message as soon as he woke, attended the king at Royston the same afternoon, and taken his instructions for the investigation. But that his first act was to make out a warrant for the arrest of Somerset, and that it had been executed before he arrived at Royston, is certainly not true. So again the words said to have been used by the king when Somerset remonstrated against the indignity of being sent for by Coke,—“Nay, man, if Coke sends for *me*, I must go,”—are so very much in his manner that I think they must be genuine. But they must have been spoken when Somerset was first summoned to attend the Commissioners, not when he was committed to custody.

An examination of the whole story in this way might yield other particulars, probably or possibly

true, which would serve to enliven the narrative a little; but when stripped of all they contain of improbable or impossible, I doubt whether they would materially affect the substance of it. And therefore if the field had been a fresh one, and I the first explorer, I should not have thought it necessary to go further. The proceedings, so far as the king was concerned, appear to me—supposing him to have been really governed by the motives which he professed to be governed by—natural, consistent, and intelligible, from first to last, and to require no other explanation. Since, however, the belief that some strange undiscovered mystery still lies beneath has been so general, and given rise to such a variety of strange conjectures, I may be still called upon to explain that fact; and the explanation need not be long.

The particulars of the several theories which have been propounded on the subject, it will not be necessary to discuss; because, if my own theory be sound, it disposes of them altogether. It is enough to observe that one general assumption lies at the bottom of them all, and if that goes they must all go. This assumption is, that the king had himself been a party to some great crime, of which he dreaded the disclosure, and which he knew that Somerset had the means of disclosing. My reasons for rejecting it are, first, that the appearances which have suggested it are one and all explicable *without* any such supposition; and, secondly, that his conduct throughout the whole business was inconsistent *with* any such supposition.

The belief that traces had been discovered of some portentous secret which would not bear the light, was no doubt general at the time among the people : and where evidence is suppressed, suspicion naturally falls upon those who had the means of suppressing it. But in this case the existence of such a belief is amply accounted for by the public announcement of the fact which had been made from the Bench. When the Chief-Justice of England informed the people that he had evidence proving that the nation had narrowly escaped a danger as great as any that the Children of Israel were delivered from—evidence of a plot which, had it not been discovered, “neither Court, city, nor many particular houses had escaped the malice of that wicked crew,”—what wonder that they expected some horrible iniquity to be presently brought to light? What wonder that, when nothing came, they supposed it had for some mysterious reason been hushed up? Or that when the Chief-Justice himself was, not many months after, removed from his place, they remembered the words he had uttered, and concluded that he had forfeited the king’s favour by seeing too far into his secrets? What the evidence was from which he inferred this secret conspiracy, *they* had no means of knowing. But we have. The evidence may still be seen in its original shape—probably all there ever was—as collected by Coke himself ; and it may all be clearly traced to the confessions made by Franklin after his condemnation. He had been sentenced on the 27th

of November, and would, in the ordinary course, have been hanged on the 29th. But as he went from the bar he had dropped a hint to those about him that "there were greater persons in this matter than were yet known." And on the 28th, when questioned on that point by the minister whom Coke sent to press his conscience, he began to throw out hints of awful disclosures which he could make if he liked; and there can be no doubt, on comparing them with Coke's reports to the king, with his remarks in Court, and with the tenor of the interrogatories which he drew up afterwards in search of further evidence, that this was the stock upon which the whole thing grew. Nothing came out of it, simply because there was nothing in it. Some portions of the evidence elicited by those interrogatories were indeed designed by Coke to be introduced by way of aggravation into the charge against Somerset, but they were struck out by Bacon, with the king's express approbation,¹ as not of weight and not to the purpose; a respect which he considered due to the dignity of justice. Any suppression of evidence other than this, there is, so far as I can find, not the shadow of a reason for suspecting.

The appearances, therefore, which first put it into people's heads to suspect a mystery, and are still supposed to imply the existence of one, may be all explained without supposing anything more than

¹ "As for all the subsequent evidences, they are so little evident, as *una litura* may serve them all."—The king's note in the margin of Bacon's letter (Lambeth mss. 933, 125).

this : that a condemned felon would not scruple to tell lies, when he found that by telling them with due respect to the appetite of the questioner he could gain a few days' respite from the gallows. And therefore, whatever inferences concerning the king's supposed crime rest upon these, must, I conceive, be withdrawn. Which being done, the only thing remaining to be accounted for is Somerset's threat to "tax him" with something, and his uneasiness while that threat was hanging over him.

But the utterance of such a threat by Somerset is as easily explained as the offer of fresh disclosures by Franklin. It was his sole remaining chance of deterring the king from bringing him to a public trial. And as for the king's uneasiness, is there any man who in such a case would not have *felt* uneasy ? are there many men who would have been able to conceal the feeling ? A proud, bold, unscrupulous, desperate man—a man too who was well known to have been trusted by the king for many years with his most secret thoughts—had declared that if he brought him to trial he should repent of it, for he would publicly accuse him of being himself implicated in the same crime (for whatever Somerset meant, this is the sense in which the king understood him). Such an accusation made against a king, who cannot be brought to trial for it, is a breath which blasts the reputation for ever, a stain which cannot be wiped out, though supported by no evidence at all. To a thoughtful man, full of apprehensions, it must have threatened a whole brood of

mischiefs and dangers. The fear of all this, though it did not deter the king from his duty, did (and very naturally did) disturb his tranquillity. Though he resolved to confront the danger, it is not to be denied that he dreaded it. "I will not omit to acquaint your Lordship," says one of Sir Dudley Carleton's correspondents, "that the day of the late Earl of Somerset's arraignment his Majesty was so extreme sad and discontented, as he did retire himself from all company, and did forbear both dinner and supper until he had heard what answer the said Earl had made. It seemed something was feared should in passion have broken from him; but when his Majesty had heard that nothing had escaped him more than what he was forced to answer to the business then in hand, his Majesty's countenance soon changed, and he hath ever since continued in a good disposition."¹ Now, knowing (as the writer of this letter did not know, but we do) what it was that the king had to fear, and with what reason, can anything be conceived more natural than all this? What is there in it so strange, that we must needs believe him guilty of murder or worse, though two centuries of scandalous curiosity have not revealed a tittle of evidence to countenance the suspicion, more than the circumstance which I have just read an account of?

But to say that in order to explain the facts it

¹ E. Sherburn to Carleton, 31st May 1616. S. P. O. It appears, however, from Mr. Gardiner's extracts from Gondomar's despatches, that the king spent great part of that day in talking with Gondomar about the Spanish match.

is not necessary to suppose the king guilty, is not to say all: I am prepared to maintain further, that if you suppose him guilty it is impossible to explain the facts.

By the supposition, the king has done something of which he dreads the disclosure, and of which Somerset knows. An inquiry is raised which implicates Somerset in a capital charge, and places his fate at the king's disposal. Had he been afraid of provoking him, he might easily, keeping the inquiry close and in his own hands, have managed it so as to keep him in temper by secretly favouring or promising to favour him. What does he do? He leaves it all to Sir Edward Coke—the most unservient, intractable, self-willed, contradictory, and indiscreet man in his dominions—a man whose pride was in his reputation for probity and independence, and who was as staunch as a bloodhound in hunting out evidence; leaves it to him without any restriction upon his discretion, or any watch kept over him; puts the probe into his hands without any caution except a solemn injunction, as he would avoid God's curse, to search it to the bottom.¹ Again; after all Coke's pains, the evidence against Somerset is found to rest chiefly upon presumptions, and is certainly not conclusive. How easily, and

¹ The words said to have been addressed by him to the Judges at Whitehall, concluding with this famous imprecation, rest only on Weldon's authority. Whether they were truly reported or not, and *when* they were spoken, if spoken at all, is immaterial; for all that they *meant* was repeated by him in writing several times over, as we have seen. From Gondomar's despatch (October 3^g) it would seem that they were addressed to the counsel when he gave Coke his first commission.

even plausibly, he might have used that circumstance as an excuse for dropping the prosecution, and so shunning the thing he feared! What does he do? He shows only the more anxiety to press Somerset to a confession, and to have the case sifted to the bottom, with an unshrinking determination to bring it to a public issue in court. Once more; Somerset, finding him in earnest, directly threatens that if the trial be not forborne, he will have his revenge by making the dreaded disclosure. Being so threatened, how easy to have soothed him by secret messages, intimating that though tried, he should not be hurt; that though public opinion required the public proceeding, yet the charge should be so lightly pressed as to insure an acquittal! What does he do? He refuses to hold any private communication with him until the trial be over. Lastly, when the trial comes on, though the threat is fresh in his ears, does he hang out signs of hope? Does he fill the Court with Peers whom Somerset may recognise as friends, or select a president who is likely to be partial? Far from it. The person selected for Lord High Steward was the Lord Chancellor, whose previous appointment as Commissioner to assist in the investigation Somerset had objected to, on the ground of supposed personal hostility; and as for the selection of the Peers, though I think I have seen it remarked that there were some of them who ought to have been excluded as personal enemies, nobody has yet thought of objecting that the Court was packed with his friends.

And very evident it is, that though he did not desire to take any unfair advantage either way, the king's anxiety was not for an acquittal, which would have relieved him at once from all further apprehension and difficulty, but for a conviction.

You see, therefore, that there is not a single movement, from the beginning to the end, such as you would have expected from him had he been acting under a guilty consciousness that his reputation was in Somerset's power : whereas if you suppose him to have been moved at first only by a natural horror of the crime and strong zeal for justice, and alarmed at last only by the fear of what a proud man, falling suddenly from such a height to such a depth, might in the bitterness of revenge or jealousy do or say, there is not a single passage in his whole proceeding which you might not have expected.

Nor were the pardons which he granted soon after, to the Countess first and then to the Earl, inconsistent with these suppositions, if they be rightly considered. The Countess, though in some respects the guiltiest of the whole party, was the first and the only one of them who confessed before conviction. In showing mercy to a confessing penitent, the king thought he was following the highest example of all ; and indeed, if he had not done so, he might have been justly charged, if not with breaking a promise, at least with deceiving a hope which he had himself encouraged. And for the Earl, though he had refused to deserve mercy on

that condition, yet that very refusal, maintained as it was to the end with resolution and consistency, was a fact tending to strengthen the doubts for which the gaps in the evidence certainly left room—doubts whether he was really an accessory before the fact. His behaviour at the trial was felt at the time by spectators fully predisposed to believe him guilty, as something unexpected and in his favour. “The only thing worth note in him” (writes Sherburn to Carleton, after observing that his answers to the charges were “poor and idle”) “was his constancy and undaunted carriage in all the time of his arraignment; which as it began, so did it continue to the end, without any change or alteration. His Lordship, though he would not confess himself guilty, but stood upon his innocence, yet hath received the same sentence which the day before was given to his Lady,”¹ etc. Nor did the passing of this sentence produce any change in him in this respect. The nearest approach to a confession which could ever be extracted from him, either before or after, was an admission made to Coke in the preceding February, that “the presumptions against him might be such, having consented and endeavoured with others the imprisonment of Overbury, etc., as that, the same being enforced by wit and art against him, the extent of law might lay hold of him and find him guilty, being never so clear.”² To this day the

¹ Sherburn to Carleton, 31st May 1616. (S. P. O.)

² Coke to the King, 8th February 1615-16.

question of his guilt remains doubtful, and the resolution with which he stood upon his innocence is felt to be a part of the evidence. "When these two letters are read" (says the late Professor Amos, speaking of certain unsuccessful "attempts to overcome the Earl's resolution"), "the Earl's perseverance in defending his innocence will appear to be a feature in his conduct deserving of much consideration in passing our judgment upon his guilt or innocence :¹ to which I may surely add—though it be an inference for which Professor Amos was little prepared—that it was deserving of no less consideration from the King in determining whether he should allow the sentence to be carried into effect. As it was, the punishment which fell upon both of them, even supposing both to have been equally guilty, was amply sufficient for example; and, though there have seldom been criminals who had less popular sympathy to plead for them, there is no reason to suppose that the mercy extended to them was at the time disliked. Another of Sir Dudley Carleton's correspondents, writing on the 29th of May—only five days after the trial—describes it as the general wish that the king might spare Somerset. "Where a man converseth" (he says), "he finds all spirits induced to favour, pity, and wish well to this personage condemned." Yet he seems himself to have believed him to have been not only an accessory before the fact, but the original actor and mover. "The Lady" (he adds)

¹ *Great Oyer of Poisoning*, p. 411.

"comes into the business by him and by his means." . . . "The pity I write of cannot proceed from thence that he did but serve another's purpose."

I am, etc.,

JAMES SPEDDING.

MESSAGE FROM KING JAMES I. TO THE EARL OF
SOMERSET, IN THE CASE OF SIR THOMAS
OVERBURY.

Sent on the 29th of December 1615, through Sir George More, Lieutenant of the Tower: communicated from the Manuscripts at Loseley by JAMES MORE MOLYNEUX, Esq., F.S.A.

ON Friday, the 29th of December, the King his Ma^{tie} sent for the Lieutenant of the Tower, and in his Ma^{ties} w^tdrawing chamber sayed unto hym—

I wold have yo^u to tell yo^r prisoner that I am sory to see that he continues still to take the wrong course to his owne hurt in this buisines, as he hath don sins the beginning of it. For whereas I have appointed Commissioners to examine hym, and to deale in all matters concerning the case of Sr Tho. Overbury; the Duke of Lenox being one, a noble man of myne owne blood, and alwayes a frend well affected to hym; the Lo. Chauncelo^r the second, a grave and a wise man, a counsellor and a great officer well deserving in the place of justice w^c he holdes; the Lo. Zouch the third, an auncient Baron, and a man voide of all partialitie; and the fowrth the Lo. Chief Justice by his place; he hath refused by them to make known his desires unto me, and, pretending that by the Lo. Knollis, and the Lo. Hay, he would communicate matter of great importans unto me concerning my servises, fit for me to know w^t speede, and that

¹ Edward Palavicino to Carleton, 29th May 1616. (S. P. O.)

neither of the criminall nor civill part of the cause for w^e he is restrained, nor of anything thereunto belonging he wold speake unto them; his speeche nevertheles to them was onely of that cause, and not of any other matter worth the speaking of, wherein he did nedelesly abuse me, offer wrong to those Commissioners, and therby did hurt to hym self. And whereas he sayeth that I have delt rigorously w^t hym in committing hym to the Tower, there to be a close prisoner, not being convicted or accused of treason, where the custome hath bin to committ persons of his qualitie to som such place as Yorke Howse or som gentleman's keeping, and not to such a prison as the Tower is; to this I say that, for matter of contempt, and suspicion of light offences, it hath bin the custome to committ men of his qualitie to such a place as Yorke Howse, as was don in the case of the late Erle of Essex. But that is not his case; the offens for w^e he is in question is a murther of the fowlest kinde, neere approaching unto treason (he that was murdered being my prisoner), and the proofes against hym alleaged by the Commissioners very pregnant, in so much that at my being at Roiston I was informed there was a great murmure amongst the people that justice was stayed, in that he was not sent to the Tower; and alsoe the Privie Counsell had an inclination (as I understood by diverse of them) to committ hym to the Tower, if I wold give them leave, bicause they thought the Commissioners durst not; w^e I wold not permit; so that neither by me nor my direction he was committed to that place, but by the Commissioners to whome I had committed the examinacion of the case of S^r Tho. Overbury, leaving it to them to bayle or to commit, as they shold finde cause according to the course of justice, who, after due examinacion of hym and of the cause, found the suspicion against hym so vehement, and the proofes so pregnant, as that holding the course of justice, the cause itself did enforce them (as they say) to commit hym to the Tower, he having given great cause of suspicion against hym self, when, by his lettres or warrant to make search *for the writings*¹ of one M^r^s Hyde,

¹ "In the hous" was first written, but erased, and the other words substituted.

he had taken the lettres of Turner and others. So as his commitment to the Tower was the act of the commissioners, and not myne; w^e by them being don according to justice, and for matter of prooffe not to be made knowen before hand to me, I might not resist, especially considering howe the common people had expressed their joye for the justice don against Weston, sayeng that the king shold have subsidies and whatsoever he wold require; that the bells had bin ronge thoroughe out all the citie; and that the Lo. Maio^r and the Aldermen by the Recorder had signified to me the great comfort they receaved in the justice don, acknowleging their great happines in living under the government of such a king, and wold them selves have come unto me to give me publick thanckes, if I had not forbidden it. If therefore I shold have stopped the course of justice against hym in this case of Overbury, who was committed to the Tower, and there kept a close prisoner by my commaundment, and cold not have bin so murdered if he had not bin kept close, I might have bin thought to be the auctor of that murder, and so be made odiousse to all posteritie. Neither hath he cause to thinck hym self rigorously delt w^t in being sent to the Tower, to w^e place many great persons have bin committed for felony, and, afterwarde appearing to be cleere, have bin set at libertie w^tout disgrace.

Nowe concerning my lettres, of w^e he sayed to the Lo. Knollis, and the Lord Hays, that he had given some to S^r Ro. Cotton to be delivered to me, and som he had kept to deliver unto me hym self; S^r Ro. Cotton hath confessed that he delivered them unto hym to be kept, and to be redelivered to hym selfe, if he shold live; or otherwise, if he shold miscary, then to be given to me, w^e lettres being by S^r Ro. Cotton delivered to a woman, the same have bin taken and brought to me; whereas if his meaning had bin to have sent me those lettres, he might have sent them unto me when first he was restrained to his chamber, or when he was in the custodie of S^r Olliver S^t John, or after that he had bin examined by the Lordes and was in the Tower, in causing them to be sealed up and sent to the Lordes to be delivered unto me.

As for the other lettres w^e for poisons and antidotes he wrote to Inglesse, I never herd of them, until three or fower dayes after he was in the Tower, and finding it to be but an idle tale, and to have no good groundes, I made noe accompt thereof. And concerning the castyng of my nativitie w^e he sayes he first discovered unto me, yo^u may say unto hym, that I remember he told me something of the casting of my nativitie by Inglesse, but that myne was cast by Inglesse I never herd of it sins by any body, neither doe I beleve that he did cast my nativity, but onely my eldest sonne that is w^t God, and of that I neither did nor doe make accompt, neither needes he thinck that for that he shall be called to accompt.

The next part of his message is a desire first for his wife, that she might not be brought to an open triall, but that she might be kept in som private corner all the dayes of her life, sins she is the mother of a child; to w^e I say that his desire is unseasonable, untill it shall appeare whether she be cleere or guiltie; if she be cleere he needes not feare to have her tried, and if uppon doubtfull proof she shall be found guiltie, and her offenses not appeare to be manifest, I shold be unwilling to suffer the lawe to be executed against her, for it might be in that case as in the case of one whose dagger was found sticking in the body of a man that was murdered, and yet the murder was not done by hym, but by another who had borrowed and taken the dagger. But if it shall plainly appeare that she is very fowle, as is generally conceaved and reported that she is, as being the author and procurer of that murder, then I thinck justice may not be stayed, and he shold have just cause to be glad that he is freed from so wicked a woman. Therfor if she be innocent he needes not feare, and if she be so fowly guiltie as is alleged, humble confession of her fault, both to God and the king, must preceede the pleading for pardon. As for hym self there is no cause why he shold desire not to come to triall if the proofes be so pregnant that they require it, for being innocent uppon triall he will be cleered, and so being justified shall receive noe disgrace, as w^t many great persons it hath fallen out w^e have bin committed to the Tower and

being tried have bin cleered for the like offenses. But if he be guiltie (as God forbid) then must he take a course by his humble confession to pleade for mercy, I being to followe the example of Almighty God, who doth not forgive sinnes untill they be confessed and sorrowed for, noe more can I shewe mercy where innocency is stood uppon, and the offenses not made knowen by confession unto me; and if he shold be convicted by lawe, he needes not take such a desperat resolucion as rather to give cause to die then live after it, for that many have bin convicted of felony w^tout accompting it so great a disgrace unto them; but indeed if he shold be convicted of treason and ingratitude against my person, then I cold not blame hym to accompt his conviction in that nature worse than a thousand deaths unto hym.

And whereas he desires me to acquaint hym beforehand w^t the thinges that ar to be layed to his charge, besides that it is so farre against the consciens and hono^r of a king to doe it, it is altogether impossible for me so to doe, althoughe I had never so good a will to doe it, for the Chief Justice refuses absolutely to serve in his place, as I told hym self at Roiston, if I shall be acquainted w^t any articles concerning blood, before the partie come to his publick triall, and I hope he wold not have me thought to be a conspirer w^t hym or any man for the eluding of justice.

Lastly yo^u shall say unto hym that if hereafter he shall desire to moove any matter for favo^r I will that he make the same knowen by the Lo. Commissioners unto me, who ar as well to be used as meanes of favo^r for hym as they have already used som pointes of rigor, as he conceaves it, towards hym; and that he seeke noe other meanes wherby to informe me, wherein he shall doe wrong to those Lordes, and give them occacion to thinke the worse both of hym and of his cause; assuring hym that by their meanes his sutes shall be more acceptable to me then by any other.

(*In dorseo.*) This is S^r George More's own
hand writing when he was
Lieut. of the Tower in
King James the First time.

VII.

THE DIVINE RIGHT OF KINGS.

HISTORY OF THE DOCTRINE.

NEVER has there been a doctrine better written against than the Divine Right of Kings. The phrase, indeed, seems innocent enough if it were not twisted into an argument for despotism ; for if any king has a lawful right to rule, it must certainly be a divine right. Such a proposition requires no very elaborate vindication, for it is clear that whatever has not a divine right to exist, any person is fully justified in endeavouring to destroy. But of course it is quite another thing to assert that the descent of the crown cannot lawfully be set aside, and that the heir to the throne has an indefeasible right to the succession. And this is the theory which the expression "Divine Right" is commonly considered to imply. It was this which was gravely combated by Locke, satirised by Defoe and Pope, and held up to the scorn of a later generation by Macaulay, long after the world had ceased to have any faith in it. Nothing on earth would seem at this day to be more completely exploded ; for it is looked upon as something preposterously unreasonable, forged to support the despotism of the Stuarts

by the instrumentality of a servile Church. One point, however, has not generally been explained. Before the accession of James I. such a doctrine was unknown. Till that time it never was and never could have been propounded. It seems, therefore, not unnatural to ask how it ever came to be invented. Opinions are commonly of slower growth touching the theory of the constitution. By what arts was the cunning fiction propagated, or from what Jupiter's brain sprang this full-armed Minerva?

As to the complete novelty of the doctrine in the days of James I. Macaulay has not stated the case too strongly. He says: "Most of the predecessors of James would, from personal motives, have regarded the patriarchal theory of Government with aversion. William Rufus, Henry I., Stephen, John, Henry IV., Henry V., Henry VI., Richard III., and Henry VII., had all reigned in defiance of the strict rule of descent. A grave doubt hung over the legitimacy both of Mary and of Elizabeth. It was impossible that both Katharine of Arragon and Anne Boleyn could have been lawfully married to Henry VIII.; and the highest authority in the realm had pronounced that neither was so. The Tudors, far from considering the law of succession as a divine and unchangeable institution, were constantly tampering with it. Henry VIII. obtained an Act of Parliament giving him power to leave the crown by will, and actually made a will to the prejudice of the royal

family of Scotland. Edward VI., unauthorised by Parliament, assumed a similar power, with the full approbation of the most eminent reformers. Elizabeth, conscious that her own title was open to grave objection, and unwilling to admit even a reversionary right in her rival and enemy the Queen of Scots, induced the Parliament to pass a law that whoever should deny the competency of the reigning sovereign, with the assent of the Estates of the realm, to alter the succession, should suffer death as a traitor."

All this is strictly true. Yet no sooner was Elizabeth dead than the crown came to be regarded as an inalienable inheritance, and the succession as a thing which neither kings nor parliaments had any right to alter. The change of view is no less sudden than extraordinary, and we may well inquire by what means it was brought about.

I reply that it was only the natural consequence of the accession of James I. If James was not king by divine right, he was king by no right at all. Yet the nation had with one voice accepted him, and no other claimant ventured to put forward his pretensions. He was the successor on whom, even before the death of Elizabeth, the nation had mostly fixed its eyes. His priority in the line of true hereditary descent was free from all those ambiguities that had perplexed his predecessors, and nothing stood in the way but some Acts of Parliament, which, though expressly devised to regulate the succession, were now regarded as of no account whatever. If, then, James was king at all, his right was superior to that

of an Act of Parliament. But in order to show more clearly how this state of matters came about, it may be as well to review briefly the history of the succession prior to the Stuart era.

So little is popularly known of our constitutional history, that it will probably be as great a surprise to most people as it would certainly have been to James I. to be informed that England was originally an elective monarchy. Such, however, is the actual fact. The Saxon and Norman kings did not succeed each other either by divine right or even by the principle of inheritance. There was, undoubtedly, at all times a high regard paid to the claims of blood and lineage; but the succession was not determined by the principle of mere lineal descent. On the death of the king the throne stood vacant until his successor could be named by the witan, or lords of the council. The interregnum extended to days, weeks, and even months; and not until the sacred rite of coronation did the new king commonly assume the title. The Saxon Chronicle relates distinctly how each successive king was elected by the witan, who, though they acknowledged some sort of claim in the next of kin, often allowed their choice to be determined by other considerations. In some cases they were influenced by the last king's will; in others the natural heir was set aside by reason of some manifest drawback or incapacity. It was still the same under the Normans. The Conqueror himself claimed his crown in accordance with the will of Edward the Confessor, and the claim was acknow-

ledged. His eldest son was twice passed over in favour of younger brothers. Stephen was acknowledged because the next of kin was a woman, and John was preferred to his nephew Arthur as more competent to govern. All this was perfectly constitutional according to the theory of the times, though there may have been in Stephen's case something rather like sharp practice.

But the natural preference of Englishmen for an eldest son and a direct lineal descent gradually brought them to regard the crown as an inheritance. There was, perhaps, at the bottom of men's minds a belief, strengthened by such instances as that of the Black Prince, notwithstanding other instances to the contrary, that the sons of strong, manly fathers were likely to be strong and manly too. But the reigns which commenced with a minority by no means justified this expectation; they all proved singularly weak and unfortunate. The son of the Black Prince was no exception. One momentary spark of manliness at Smithfield alone redeemed the feebleness of his unhappy reign. So great, nevertheless, was the belief in blood, that Henry IV., to justify his usurpation, must needs attempt to show that he had a hereditary right superior to that of Richard II. He was descended from Edmund, surnamed Crouchback, Earl of Lancaster, son of Henry III.,—his second son according to historians, his eldest son according to his descendant. Edmund, forsooth, had purposely been put back by his parents in the succession on account of his deformity, and

his place had been taken by his younger brother, Edward I. When such arguments were used, the strength of a mere hereditary claim was in point of fact acknowledged. What wonder, then, that Mortimer was a name the haughty Bolingbroke could not endure to hear uttered? In the very act of grasping the crown Henry recognised the principle that was to overthrow his dynasty. "Kings in fact, but not of right," was the title given to the Lancastrian princes by their successors of the House of York;¹ and it is the first time we find such a distinction drawn. The right to rule over England had come to be acknowledged as an absolute property vested in one or other family, and the only way to settle whose it was, was for the families to fight it out.

Peace was established by Henry VII. in the union of the Roses. And yet it was but an awkward compromise. Henry married the heiress of the House of York, but there were other claimants. The House of York had not been a united family, and the result of their quarrels was that the true heir was uncertain. Richard III. had succeeded for a time in casting the slur of bastardy on his brother Edward's children. Clarence, the other brother, who played the traitor, had left behind him a son and daughter, incapable of inheriting, indeed, if attainders were worth much; but Henry's own case showed that they were not an insurmountable

¹ In the patents and charters of Edward IV., whenever a grant of Henry IV., V., or VI. is cited, the words "*de facto, sed non de jure Regis Angliæ*," are invariably added to the king's name.

obstacle. The Earl of Lincoln, whom Richard III. had declared heir to the crown, saw the prize snatched from his fingers. It was in vain Henry took care to have the young Earl of Warwick under very special keeping. False Warwicks were set up one after another, in England and in Ireland, to shake his throne. Then a rumour went forth that one of Edward IV.'s sons was alive, notwithstanding the supposed murder in the Tower; and whether it was true or false, Perkin Warbeck was an uncomfortable phenomenon.

Henry VIII., however, had the undoubted blood of both houses in his veins, and no pretenders ventured to disturb his throne. Still, the leading members of the House of York were watched with jealousy, and, whatever may have been their faults, came one by one under the axe of the executioner. The nation was thoroughly devoted to the new dynasty, and all desired to see it strong and stable. Events, however, were unpropitious. Out of we know not how many births, only one child of Katharine of Arragon's got beyond infancy. That child, too, was a female, and a female had never yet sat on the throne. Then came the divorce, and the marriage with Anne Boleyn, who gave birth to Elizabeth; but the marriage with Anne Boleyn, too, was declared invalid. The only legitimate child of Henry was the son of Jane Seymour, the frail, weak boy, Edward VI. On his death the House of Tudor would have been extinguished but for the provisions made to meet the contingency during the

lifetime of Henry VIII. For Henry, on his marriage with Jane Seymour, got his Parliament to pass an Act authorising him to regulate the succession by his will, in case of the failure of his own legitimate issue. With the concurrence of his Parliament, he afterwards arranged that if Edward died without issue, Mary should succeed, and Elizabeth in like case to Mary. The possibility of all three dying childless must then have seemed somewhat remote; but that too was to be provided for by Henry VIII.'s will, which it was enacted should have the force of law. And what Henry willed in that case was, that the crown should descend to the heirs of his younger sister, Mary, in preference to those of his elder sister, Margaret, from whom James I. derived his claim. This arrangement was afterwards confirmed by an Act of Queen Elizabeth's time.

Thus the course of the succession was fixed, as firmly as king and Parliament could fix it, for posterity. Nor were the Acts ever repealed, or the will declared null. Yet even Henry's two daughters had not untroubled possession of the throne. Every one knows the story of Lady Jane Grey, who for some days usurped the place of Mary. Elizabeth, through the greater part of her reign, was in danger of being supplanted by Mary, Queen of Scots. Sentimental historians, indignant at the tragic scene at Fotheringay, are apt to make but little account of the long trial endured by the English queen in the very existence of her rival. In the eyes of the Catholics, Mary was the rightful

queen of England, and the Pope would have blessed the dagger which removed an obstacle to her succession. The loyalty of Englishmen, however, rose with the danger, and there grew up an enthusiasm for Queen Elizabeth such as no other king or queen in English history has commanded. Special Acts were passed to protect her life, by which it was provided that any attempt against her in behalf of one who might possibly succeed to the crown should for ever bar the claims which that person might otherwise set up.

It was not wonderful, then, that devotion to Elizabeth's person became a part almost of an Englishman's religion. Later ages have discovered the fact that she had her failings—not only human, but in a special degree feminine. Unpitied biography, with captivating style and imposing show of research, has peered into her weaknesses, and held them up to view. Even the most superficial reader now can see the littleness of England's heroine, and can but marvel to think of genius, wit, and heroism paying monstrous, fulsome compliments to an idol like Elizabeth. O wondrous, free, and independent nineteenth century, which surely had little need of a Thackeray to write for its admonition a cynical *Book of Snobs*! Is it not painful to look back and think of Spenser, Raleigh, and Sir Philip Sidney—ay, even Shakespeare himself—condescending to the arts of vulgar flattery? We have surely made great progress since that day!

But can we picture to ourselves an age when English royalty was something more than the top of our social life ? The great cause of the Reformation, the still dearer cause of national independence, hung in the breath of Elizabeth's nostrils. She stood before the eyes of the nation the embodiment of all that was English, all that was free. In her, men seemed to see all that they cared to live for ; in any other there could be but slavery and national degradation. She seemed to be identified with her people ; for them she was to marry, or to remain the virgin queen. She chose the lot that seemed most self-denying and least in accordance with her people's wishes, but it was doubtless for her people's sake. She felt, indeed, heart and soul with them. In some things, it may be, the ideal Elizabeth was grander than the reality. But surely it is nothing contemptible in affection to magnify its object. This loyal devotion went far to prevent the succession being greatly talked about. But it was still an anxious question through the whole of that long reign. One thing only was clear to every loyal subject,—Mary Stuart must not be the successor, or she would succeed too soon. Her repeated refusals to ratify the Treaty of Edinburgh were unmistakable indications of her aim. The succession of a Scotch sovereign would at all times have been distasteful to the nation ; it was more so now than ever. The will of Henry VIII. was ratified by Parliament ; and while the nation fondly hoped Elizabeth would marry, it was a comfort, if

the worst should happen, that she could not be succeeded by Mary. It was made high treason to breathe a whisper against Elizabeth's right, or to declare that the queen and Parliament could not limit the succession as they pleased. Moreover, as the Pope had absolved Elizabeth's subjects from their allegiance, it was made high treason for any one to be reconciled to Rome. As for that little project of marriage between Mary Stuart and the Duke of Norfolk, it would, no doubt, have helped the Scottish queen by giving her a native English husband of the blood royal, but that was put a stop to in the most effectual way. Norfolk, as every one knows, was sent to the block; but Mary's life was not taken till seventeen years later. In the interval things had not improved. A project was well known to be entertained by certain leading powers of the Continent for bringing back England to the Catholic faith,—the massacre of St. Bartholomew showed pretty clearly how. And yet, what was the duty of a pious Catholic who believed his prince to be excommunicated and her rule a curse to Christendom? Had not the Pope absolved him from all allegiance? Was not allegiance to her a sort of crime? Whence had kings and queens derived their power that they should be obeyed to the destruction of men's souls? And so the plot went on, and never wanted agents. No former failures daunted new designs, till at last not a year could pass away without a fresh conspiracy on behalf of Mary.

Her death made one thing evident at least ; it was not by the act of an assassin that England was to be brought back to Rome. The friends of papal domination had to change their tactics and make greater efforts if they were to do anything at all. What came of those greater efforts all the world saw in the fate of the Armada. The external enemy could then do little more ; his strength was exhausted, and Elizabeth was left for the rest of her days in comparative tranquillity. But was there not an internal enemy too, almost as troublesome as the Jesuit priests ?—men who, however different otherwise, agreed with the Jesuits in thinking there was an authority to be obeyed sometimes in preference to earthly kings ? That was a true doctrine no doubt, but an awkward one to publish ; and to go about issuing scurrilous pamphlets against bishops, likely to unsettle the foundations of Church and State, at the very time the foreign enemy was threatening our shores, was not the way to bring Puritanism into favour. Some of the principles set forth by the Puritans differed not a whit from the most objectionable doctrines of the Jesuits. They denied the queen's supremacy, held her liable to excommunication, in which case her subjects were absolved from their allegiance, and might be justified in making war upon her if she did not reform the Church of England on the model of Geneva. Could that religion be a good one that spread dangerous doctrines like these ?

Thus it was that Papists and Puritans were

regarded as the two great enemies of the State. But even the most unpopular opinions have their weight. If continually ventilated, they always tell upon the public, and either meet with partial acceptance or provoke opposing dogmatism. Possibly both results followed in the present case, and had some influence on the question of the succession; for who was to succeed Elizabeth was still as far from being settled as ever. The subject, indeed, was not to be rashly spoken about, for it was one of those mysteries of State which were purposely kept in the dark. Elizabeth appears to have believed in her right to name her own successor, and she reserved the exercise of it to the last, with the full approval of politicians, who thought that an earlier declaration might be unsafe alike for herself and her nominee. But it was understood she favoured the King of Scots, and the general sense of the country looked in the same direction. The Judges who had passed sentence on his mother had declared that her conviction did not prejudice his claims. Almost all the objections to a Scotch succession seemed to have passed away with Mary; and a hope began to be entertained that the union of the whole island under Protestant rule would give security to the reformed religion. Nor was the feeling in favour of James diminished by the efforts of factious Jesuits to set forth and magnify as much as possible the extreme uncertainty of the succession. A treatise was published by Father Parsons¹ in 1594, calcu-

¹ *A Conference about the next Succession to the Crowne of England,*

lated to create the gravest anxieties as to what might take place on the death of Elizabeth. There were five different families that might pretend to the crown, and no less than twelve possible claimants : indeed, others reckoned as many as fourteen. Of the house of Scotland there were King James and Lady Arabella Stuart. The former was undoubtedly next in succession, but then he was an alien, and since the days of Henry II. no alien had been king. James could not by law inherit an acre of English land ; how, then, could he inherit the crown ? Lady Arabella was of English birth, but besides some fancied doubts as to the legitimacy of her descent, there was an objection to a third female sovereign being preferred to so many male claimants. Then, if Henry VIII.'s will were valid, neither James nor Arabella could pretend a title. The heir must then be looked for in Edward, Lord Beauchamp, the representative of the house of Suffolk. But there was a question as to the marriage of his parents, which might transfer the rights of the Suffolk lineage to Ferdinando, Earl of Derby. The whole house of Suffolk, however, was open to objection on another question of legitimacy ; for, extraordinary as the fact may seem, Charles Brandon had a wife alive at the time he married

by R. Doleman. Doleman was a priest of the rival order of Secularists, who were less strongly opposed to the Church of England than the Jesuits. Many persons in England at this time were inclined to favour their milder form of Catholicism, and to think the breach with Rome not yet irreconcilable ; but it was the object of Father Parsons, in thus writing under the signature of " R. Doleman," to get them into disfavour by making them responsible for some of his own obnoxious sentiments.

Henry VIII's sister.¹ It might therefore be advisable to pass over the issue of the Tudors altogether, and go back to that of the Plantagenets. But here there was the old controversy between York and Lancaster, more complicated now than ever. The male line of Edward IV. was extinct. The Earl of Huntingdon was supposed to have a claim as the representative of the line of Clarence; but his right seemed barred by several attainders, and even his pretence to be head of that house might be contested by the issue of Sir Geoffrey Pole. His leanings, besides, were towards the Puritans, which was enough to make his claim unpopular. Setting aside all these complications, it was urged that a clearer title might be found by going back to the original line of Lancaster, the issue of John of Gaunt by Blanche of Castile, instead of those descended, like the Tudors, from his ambiguous connection with Catherine Swynford. But this line descended one way through the kings of Portugal to the ducal houses of Parma and Braganza; by another it led through Philip II. of Spain to the Duchess of Savoy and the Infanta. This last princess was evidently the favourite with the Jesuit pamphleteer, who set forth her claims with particular minuteness, and showed that she

¹ This wife was a relation of his own, being what we call first cousin once removed. He afterwards obtained a bull of divorce from Clement VII. on the ground (much the same as Henry VIII. was at that very time urging in his own behalf) that the marriage had been within the prohibited degrees of affinity, and was therefore illegal. See Brewer's *Letters and Papers of Henry VIII.*, vol. ii. preface, p. xxxiv. note.

was in many ways descended from the royal blood of England.

All this looked serious enough when it was hinted that the rival claims could only be settled by the sword. The legal subtleties which enveloped the question—the difficulties regarding bastardy, attainder, and the succession of females—bore upon every claim that could be advanced, and were certain to appear formidable to any one not acquainted with the English quality of common sense. They might have their influence upon foreign princes or upon vain minds like that of Essex, who, great in the favour of the multitude, was encouraged by Parsons, in his dedication, to consider his own voice in the matter potent beyond all others. But to the nation it seemed simple enough. As Mr. Bruce remarks:¹ “The people settled the case at their own firesides. Unseduced by the cavils or quibbles of Jesuits or lawyers, their common sense threw aside the difficulties piled up before them, and seized at once upon the true principle of a right determination. The line of Henry VIII. was about to fail. They must go back to Henry VII. James of Scotland was Henry VII.’s eldest lineal representative, his true and obvious and nearest heir. Building upon that foundation, the judgment of the vast majority of the people—it may be said the judgment of the nation—was clearly in his favour. Without polling-place or

¹ *Correspondence of King James VI. of Scotland with Sir Robert Cecil and others in England*, p. 12, published by the Camden Society.

show of hands, without affronting the weakness of the queen by a public discussion, the opinion passed from homestead to homestead by the electrical influence of an obviously right judgment, until from the Land's End to Berwick there was substantially but one opinion." And certainly the work of a Jesuit like Parsons, who wrote under a false signature to gratify private malice, was not likely to make the nation change its mind.

After the death of Essex people spoke more freely upon the subject, and no one seemed to have the smallest objection to accept James as his future sovereign. The Earl of Northumberland wrote to tell him so. "When we look," he said, "into your competitors at home, we find the eyes of the world, neither of the great ones nor small ones, once cast towards them; for either in their work are they contemptible or not liked for their sexes, [the people] wishing no more queens, fearing we shall never enjoy another like to this." The general expectation of James's succession had caused the wars in Ireland not to be so vigorously prosecuted, as it was conceived that whenever he came to the crown the Irish chieftains would lay their swords at his feet. The Scottish Borders, too, were weakly guarded in comparison with former times.¹ The foundations had already been laid, before the death of Elizabeth, for a union of the two kingdoms under one king.

¹ *Correspondence of King James VI. of Scotland with Sir Robert Cecil and others in England*, p. 5, published by the Camden Society.

Such being the case, it is no wonder that James succeeded to the crown without a murmur of dissent. He was proclaimed within a few hours of Elizabeth's death, and the first act of his first Parliament was to recognise his title. To recognise it—not, as in the case of many of his predecessors, to confirm it; for it was clearly the doctrine now that the title of a king was higher than Parliaments could make or unmake. Whatever pedants might think of the previous Acts of Succession—whatever Jesuits might think of the Pope's right to annul allegiance—the right by which James succeeded was such as the nation would not hear called in question. The first act, therefore, of James's Parliament was to make this acknowledgment: "That immediately upon the decease of Elizabeth, late Queen of England, the Imperial Crown of the realm of England, and of all the kingdoms, dominions, and rights belonging to the same, did, by inherent birthright and lawful and undoubted succession, descend and come to your most excellent Majesty, as being lineally, justly, and lawfully, next and sole heir of the blood royal of this realm."

These words contained a practical admission of the principle of divine right, together with another principle which was its necessary consequence, and is still admitted as part of the Constitution. "The king," it is still said, "never dies." The moment a sovereign breathes his last, his successor begins to reign. His Parliament does not ratify his title: his coronation confers no new powers; the sacred oil

with which he is anointed has ceased to have any mystic virtue. He is king by the simple fact of birth, being next in the succession. But never till the days of James had royalty been so regarded; never till his days could such a doctrine have been recognised. It was the one clear principle that had been long desired to fix the Constitution—the happy settlement of questions which had made the throne a thorny seat alike to Tudors and Plantagenets. The repeated marriages of Henry VIII., his will, and the enactments confirming it, had all failed to give Englishmen that clear undoubted title for their sovereign which they had so long and ardently desired. The only way now to attain that object was to cast aside the former means as worthless. Acts of Parliament must no longer be regarded. Hereditary right must be treated as superior to them: it must be a right derived from God himself. The doctrine seemed not without Scripture warrant as well as warrant in expediency. It seized upon the mind with the force of a new truth, and had a kind of intoxicating effect. The best weal of the nation was thought to depend on their exalting the prerogative of the crown, and men seemed anxious to prostrate their liberties before the wheels of James's chariot.

But were there none, it will be asked, who upheld what seems to us the cause of common sense, who showed that kings reigned only by their subjects' consent, and that it was the natural right of every community to choose its rulers? Yes,

undoubtedly there were some, or would have been, if they had dared to speak. Father Parsons had expressed those principles as clearly as the historian Hallam, and on them he had founded his arguments for the succession of the Infanta. Roman Catholic writers generally agreed that all power was from the people, and even contended that as they had given it originally to their princes, they might resume it again into their own hands. But a man who should breathe such a sentiment in England was evidently a public enemy. The religion and the nationality of Englishmen gathered round the king as head both of the Church and of the State, and the only guarantee for the stability of the most cherished institutions was conceived to consist in upholding the prerogatives of the crown.

It was hardly seen at first how much these principles involved. Their consequences, however, could not long lie dormant. If they were to be thus recognised as constitutional, it was inevitable that attempts should be made to define more precisely than hitherto the nature of hereditary right and of the king's supremacy in Church and State. The matter concerned particularly two classes of men, divines and lawyers, to both of whom it was of the utmost importance that the true application of these principles should be clearly laid down. There was a difference, however, between the two professions, the latter being influenced by practical considerations from which the former were comparatively free. Convocation, accordingly, took in

hand to counteract the obnoxious doctrines about Government upheld by the Jesuits, and, under the guidance of Archbishop Bancroft, began framing a set of canons on the nature of political and ecclesiastical authority. Divine right implied the doctrine of non-resistance, and non-resistance made it impossible for subjects even to scrutinise their prince's title. It was denounced as erroneous to assert that men were originally free until they chose themselves rulers; that power in any way emanated from the people; that coronation conferred any right upon a sovereign which he did not possess before, or that any resistance was lawful, even to an unjust and unlawful king. Common sense might rebel against these conclusions—with that Convocation did not care to trouble itself—but such teaching was almost as hard to reconcile with Scripture as with reason. This, however, was actually attempted, and in a strange misty way the whole course of Old Testament history was expounded in accordance with the doctrines above specified.

One specimen of their mode of handling it will probably be enough. It is related in the Book of Judges how Ehud delivered the children of Israel from the Moabites by seeking a private interview with Eglon their king, and suddenly thrusting a dagger into his intestines. Convocation had no doubt whatever that the act was justified—which even a warm friend of freedom might question—but considered that it was justified only by a special

commission from God. The Israelites, it seems, "knew that it was not lawful for them of themselves, and by their own authority, to take up arms against the kings whose subjects they were, though indeed they were tyrants: and therefore they cried unto the Lord for succour: who, in compassion of their servitude and miseries, appointed Othniel to deliver them from the Aramites, and afterwards Ehud from the Moabites." This was proved by the statement that "God raised them up" and made them "saviours to His people," so that there was no doubt of the authority on which they acted. "If any man, therefore," it was declared, "shall affirm either that any godly and dutiful subject in the Old Testament did ever, by the direction of God's Spirit, account this fact of Ahud to be a lawful warrant for him to have murdered the king under whose subjection he lived, for any cause whatsoever, . . . or, that any person born a subject, and affirming by all the arguments which wit or learning could devise, that God had called him to murder the king *de facto*, under whom he lived, . . . ought therefore to have been believed of any who feared God: except (which is impossible) he should first prove his credit in so affirming to be equal with the Scriptures, and that men were bound as strictly to believe him in saying that God called and stirred him up to the perpetrating of that fact, as we are bound to believe the Holy Ghost, by whose instinct the Scriptures were written, when He telleth us that God raised up

Ahud for a saviour to His people ; he doth greatly err.”¹

To murder a king, certainly, is not an act which, under any circumstances, can be prompted by God ; but Convocation meant to denounce armed resistance even to a tyrannical oppressor.

This was a little too much for common sense—too much, it appeared, even for James himself. It seemed to make all sovereigns alike, whether lawful monarchs or usurpers. Had he no claim, then, to the obedience of his subjects better than that of a mere *de facto* king ? Then, if the King of Spain should succeed in conquering England, it would be unlawful for his own subjects to attempt to throw off the yoke. James was touched to the quick, and, bristling with indignation, wrote in the following terms to one of the leading divines :—

“ GOOD DOCTOR ABBOT, —I cannot abstain to give you my judgment of your proceedings in your Convocation, as you call it ; and both as *rex in solio* and *unus gregis in ecclesia*, I am doubly concerned. My title to the crown nobody calls in question, but they that neither love you nor me ; and you guess whom I mean. All that you and your brethren have said of a king in possession (for that word, I tell you, is no worse than that you make use of in your canon) concerns not me at all. I am the next heir, and the crown is mine by all rights but that of conquest ; and Mr. Solicitor has sufficiently expressed my own thoughts concerning the nature of

¹ Overall's *Convocation Book*, pp. 45-48.

kingship in general, and concerning the nature of it *ut in mea personâ*, and I believe you were all of his opinion; at least none of you said aught contrary to it at the time he spoke to you from me. But you know, all of you, as I think, that my reason of calling you together was to give your judgments how far a Christian and a Protestant king may concur to assist his neighbours to shake off their obedience to their sovereign upon the account of oppression, tyranny, or what else you like to name it. In the late queen's time this kingdom was very free in assisting the Hollanders both with arms and advice; and none of your coat ever told me that any scrupled at it in her reign. Upon my coming to England, you may know that it came from some of yourselves to raise scruples about this matter. And albeit I have often told my mind concerning *jus regium in subditos*, as in May last, in the Star Chamber upon the occasion of Hales his pamphlet, yet I never took any notice of these scruples till the affairs of Spain and Holland forced me to it. All my neighbours called on me to concur in the treaty between Holland and Spain; and the honour of the nation will not suffer the Hollanders to be abandoned, especially after so much money and men spent in their quarrel. Therefore I was of the mind to call my clergy together, to satisfy, not so much me as the world about us, of the justice of my owning the Hollanders at this time. This I needed not have done; and you force me to say I wish I had not. You have dipped too deep into

what all kings reserve among the *arcana imperii*. And whatever aversion you may profess against God's being the author of sin, you have stumbled upon the threshold of that opinion, in saying upon the matter that even tyranny is God's authority, and should be revered as such. If the King of Spain should return to claim his old pontifical right to my kingdom, you leave me to seek for others to fight for it; for you tell us upon the matter beforehand, his authority is God's authority, if he prevail."¹

This rebuke must have considerably astonished the clergy to whom it was addressed. It seems to have put an end to at least one absurdity. If men could still believe that tyranny might in certain cases be invested with God's authority, they no longer attempted to show that obedience was due to a usurper. But of course the authority of a lawful prince might be magnified as much as ever, and magnified it was, both by clergy and lawyers, a good deal beyond any former precedent. A law dictionary, entitled *The Interpreter*, published by Dr. Cowell, Professor of Civil Law at Cambridge, in 1607, afforded numerous examples of the growth of the new fanaticism. Under the heads of "King," "Parliament," and "Prerogative," it was maintained that the sovereign was above the law, and it was even rather strongly suggested that England was an absolute monarchy. The king had the power of dispensing with positive enactments, and was not

¹ See preface to Overall's *Convocation Book*, pp. 7, 8.

actually bound to obtain the consent of Parliament to such laws as he himself might desire to impose. If he were not an absolute king, he was not a real king. "And therefore, though it be a merciful policy, and also a politic mercy (not alterable without great peril) to make laws by consent of the whole realm, because so no one part shall have cause to complain of a partiality, yet simply to bind a prince to or by those laws, were repugnant to the nature and constitution of an absolute monarchy."

This was venturing upon rather delicate ground. It was a high theory, defensible perhaps on abstract philosophical grounds, but it looked practically a little dangerous. Whatever the lawyers and the clergy might say, Parliament could not be expected to subscribe to such a doctrine. The book was brought under the consideration of the House of Commons, who urged the Lords to join them in pressing it upon the king's attention; but while they were deliberating, a message came from the king himself, declaring that he was much displeased with the doctrines contained in it, and would order the publication immediately to be suppressed. He owned that he was indebted to the law for his crown, and that he had no power to make laws of himself or exact subsidies without the consent of the three Estates.¹

¹ Gardiner's *History of England*, vol. i. pp. 452-4. It may be observed that James's practical good sense was somewhat better than his philosophy, seeing that, as we have already shown, he was *not* indebted to the law for his crown. He owed it to a feeling in the English mind that the claims of lineal descent were stronger than the obligations of a Tudor Act of Parliament,—in short, to an unconscious sentiment of divine right.

Thus did King James himself, with all his own high notions on the subject, for the second time rebuke the extravagance of the over zealous friends of royalty. And if it had been left to James's subjects, undisturbed by any terror from without, the new doctrine of divine right would, in all probability, soon have found its level. But just about this time, Suarez the Jesuit was busily inculcating by his writings the right of subjects to depose and murder a king against whom sentence of deprivation had been pronounced by the Pope. "Good Dr. Abbot," who had now become Archbishop of Canterbury, made extracts from it, to show its bearing upon a political question that had risen up in Ireland, where the Government had been attempting to impose upon the Catholics disabilities altogether new. A deputation of Irish Catholics had come over to express their grievances to the king. The extracts made by Abbot were submitted to them, and their opinions asked upon the doctrines there set forth. One of those examined, William Talbot, would not positively contradict the doctrine of the Pope's power to depose princes, declaring it to be matter of faith in which he was bound to submit to the judgment of the Church; at the same time he fully acknowledged that James was his lawful and undoubted king, to whom he would bear allegiance during life. A more enlightened age would have been satisfied with this declaration; James's ministers were not. Talbot was committed to the Tower, and afterwards brought before the

Star Chamber, where he was sentenced to a fine of £10,000, which, however, it may be believed, was afterwards remitted, as he was allowed to return to Ireland.¹

It has now been proved by the experience of centuries that the loyalty of Roman Catholics towards a Protestant sovereign may be relied upon with perfect safety. But it was not easy to entertain the same amount of confidence in days when the heat of the great struggle of the sixteenth century had not yet abated,—when Europe was still split up into two hostile camps, and when Jesuits were publishing opinions like those of Suarez. At the trial of Talbot before the Star Chamber, Bacon, as Attorney-General, prosecuted. He said to the Judges: “I shall bring before you a cause concerning the greatest duel which is in the Christian world, the duel and conflict between the lawful authority of sovereign kings, which is God’s ordinance for the comfort of human society, and the swelling pride and usurpation of the see of Rome *in temporalibus*, tending altogether to anarchy and confusion. Wherein if this pretence in the Pope of Rome, by cartels to make sovereign princes as the banditti, and to proscribe their lives, and to expose their kingdoms to prey,—if these pretences, I say, and all persons that submit themselves to that part of the Pope’s power in the least degree, be not by all possible severity repressed and punished, the state of Christian kings will be no other than the ancient torment

¹ Gardiner’s *History of England*, vol. ii. p. 315.

described by the poets in the hell of the heathen : a man sitting richly robed, solemnly attended, delicious fare, etc., with a sword hanging over his head, hanging by a small thread, ready every moment to be cut down by an accursing and accursed hand." ¹

There can be no doubt that Bacon spoke in these words the mind of the English people, who clung all the more strongly to the authority of a national sovereign and a national Church as they saw attempts made to supplant them by that of a foreign ecclesiastic. But any attempt to define the authority of Church or King was beset with dangers like those which had befallen Dr. Cowell and the Convocation. If the king was not altogether independent of Parliament, it seemed doubtful where the sovereign authority lay ; and yet to assert that he was so might bring on serious questions. There were lawyers like Bacon, who would have upheld the king's prerogative above all things, and there were lawyers like Coke, more jealous for the liberty of the subject and the privileges of the House of Commons. It was not till the succeeding reign that the theory of divine right, and the principles it involved, were elaborated into a system by Sir Robert Filmer ; and the work in which they were most fully stated remained in *ms.* till long after the Restoration.

Sir Robert was a country gentleman of Kent, who, for his loyalty to Charles I., had his house

¹ Montague's *Bacon*, vol. vi. p. 452.

ten times plundered during the Civil War.¹ His writings were, in a later age, regarded as the great exponents of Tory doctrine touching the authority and the rights of kings. Bishop Burnet and some others of that time speak of them with supreme contempt. Locke, however, did not disdain to answer them, and it was made one of the charges against Algernon Sidney, that a MS. answer to Filmer's *Patriarcha* had been found in his possession. But their importance does not seem to have been discovered till the time when the Exclusion Bill was brought before Parliament to prevent the accession of James II. At this time the *Patriarcha* first saw the light, after its author had been many years in his grave,² and it was at once received with approbation by a large and powerful section. On the other side various treatises appeared; and it is to be noted, among other things, that the weapons of the Romanists were skilfully turned against themselves by a republication of Father Parsons's book on the succession after Elizabeth. The right to exclude a Catholic from the succession was strictly in accordance with the principles which the Catholics themselves had most strongly insisted on.

¹ Hasted's *History of Kent*, vol. ii. p. 418.

² All our biographical dictionaries are in error as to the date of Filmer's death. Chalmers puts it in 1647, which is impossible, as Filmer wrote some observations on Hobbes's *Leviathan*, which was not published till 1651. Rosa gives 1688, which is equally inaccurate, as appears by a letter printed with the *Patriarcha* in 1680, from "the late learned Dr. Peter Heylyn" to his son Sir Edward Filmer, expressing his sense of the loss he had sustained by Sir Robert's death. The true date is doubtless 1653, as given in Hasted's *History of Kent*.

Nothing could have been more opportune, at such a time, than the publication of a treatise in defence of the divine right of kings by hereditary succession. Yet it is singular, to say the least, that a posthumous work like that of Filmer, which the author himself would probably not have published in the state in which he left it, should have been regarded in those days as the best exposition of a principle so fiercely assailed by one party, and so faintly defended by the other. It seems doubtful, in fact, whether it expressed the mature thoughts of Filmer himself upon the subject; for it is said to have been written about the year 1642, and he himself actually published two tracts upon monarchy a few years later, while he left the *Patriarcha* still unpublished at his death in 1653. Nearly forty years, it would seem, had elapsed since its composition when it was first given to the world in 1680; nor would it in all probability have been published then, but that it seemed so like a weapon expressly forged to defeat the Exclusion Bill.¹ The very fact that it was not written with that specific aim must have made its arguments seem more telling; and the reputation the author had already left behind

¹ Sir James Tyrrell, writing under the pseudonym "Philaethes," published in 1681 a tract entitled *Patriarcha non Monarcha*, in answer to Filmer's *Patriarcha*, in which he supposes that work to have been written after Filmer's other treatises, and to contain his most mature thoughts. But this, it is clear from Tyrrell's own words, is only a surmise. The larger scope of the *Patriarcha*, as compared with the other works, is all that appears to favour it. But in fact this is an argument that may be turned the other way, as nothing is so characteristic of a young and original writer as the formation of a crude and comprehensive theory.

him for learning, sagacity, and dialectical skill, was such as to secure beforehand a favourable reception for the work.

The modern reader may possibly be inclined to doubt whether such a reputation could have been deserved. To credit a writer with sagacity who could seriously uphold a doctrine so much at variance with our present notions as divine right, appears truly to require some assurance. Nevertheless I venture to say that, with regard to Filmer's writings generally, it is not mere sagacity, but shrewd common sense that strikes one as their principal characteristic; and it is only because those writings are now out of date (some of them, I suspect, having been read by no one in this generation but myself), that he has come to be regarded solely as the advocate of a crotchet. To do him justice, therefore, I will give the slightest possible account of the nature of his other publications, before proceeding to notice the argument of the *Patriarcha*.

The first treatise that he is known to have composed was a little work on Usury, which he had kept in manuscript for nearly thirty years, when it was published, without his authority, by the learned Sir Roger Twisden in 1653,¹ with some prefatory remarks on the decrees of Church Councils on the

¹ According to a list of Filmer's works given in a preface to the 1680 edition of his tract on *The Power of Kings*, this treatise, entitled *Questio Quodlibetica, or, A Discourse of Usury*, was written about 1630, and first published in the year 1656. Both dates are evidently wrong, for it was published in 1653, and Twisden's preface, dated in 1652, says that it was written "almost thirty years since."

subject. Twisden's reason for taking such a liberty with the work of a living writer was the fact that private friends were importunate for copies, and he feared it might suffer from ill transcribers. The object of this tract is to vindicate the lawfulness of taking interest for money lent—a practice that had been denounced by some divines of that day—and set at rest the consciences of some who entertained doubts upon the subject. Here at least, I think, it will be admitted by every one but Mr. Ruskin, he took the side of simple common sense against a scruple which was both unreasonable and unpractical. Still higher praise is due to his latest production, *An Advertisement to the Jurymen of England touching Witches*, published in 1653 in consequence of a recent witch trial in Kent. In this work he practically discredits the superstitious theory altogether, by pointing out how utterly impossible it is, on the showing of its advocates themselves, that any satisfactory evidence could be produced of so fanciful a crime, and warns the jurymen of England of the serious responsibility they incurred if they condemned any one to death on a charge so frivolous. Here again, one would think, Filmer is entitled to the sympathy of a more enlightened age than his own; but he has not yet received his due. Between the composition of these two works he also wrote a tract, *Of the Blasphemy against the Holy Ghost*, first published after his death, in 1656, of which there is not a copy in the British Museum; also four different treatises on monarchy and govern-

ment, partly in answer to Hobbes and other writers ; a treatise called *The Freeholders' Grand Inquest*, touching the functions of the Commons in Parliament ; and finally, the *Patriarcha*. *The Freeholders' Grand Inquest* is a remarkably able treatise in opposition to the views of Prynne, not unworthy of perusal at the present day, if only to show how little foundation there was, either in antiquity or in the history of England prior to Stuart times, for the high position and privileges then first asserted for the House of Commons. It is true, both in this and in the other political tracts, a theoretical absolutism is claimed for the Crown in opposition to the popular theories which then began to be so strongly asserted. But it may be fairly questioned whether, so far as the English Constitution had developed itself in those days, historical facts and precedents were not very much in favour of the view which Filmer upheld. In the other tracts the principal question discussed is the origin of civil government, chiefly in answer to the theories put forward by Hobbes and Milton, and I think it must be confessed that some of his objections to their arguments are exceedingly pregnant. It is, however, of little consequence to refer to them here, as my object is to set forth Filmer's ideas rather than his arguments, and an examination of his *Patriarcha* will show sufficiently what he thought upon this subject, as well as upon the principle of divine right. To this examination, accordingly, I will now proceed.

At the outset he sets himself boldly to controvert the doctrine that "mankind is naturally endowed and born with freedom from all subjection, and at liberty to choose what form of government it please; and that the power which any one man hath over others was at first bestowed according to the discretion of the multitude." This tenet, he declares, owed its origin to the early schoolmen, and had "been fostered by all succeeding Papists for good divinity." It was so plausible that it had found acceptance even with the divines of Protestant churches; and it recommended itself everywhere to the common people, as acknowledging the right of the meanest to some share of liberty, "never remembering that the desire of liberty was the first cause of the fall of Adam." Nevertheless, he holds, no such doctrine was to be found among the Fathers of the early Church; it was contrary to the whole teaching of Scripture, the practice of all ancient monarchies, and the very principles of the law of nature. It was bad divinity and dangerous as a political principle, though Calvinists and Jesuits had combined to affirm it, and had even carried it so far as to maintain that the people had the right to punish or deprive their king if he transgressed the laws of the kingdom. In this there was a wonderful agreement between the writings of Calvin and Bellarmine, between George Buchanan and Parsons the Jesuit. Nor did it appear that this serious error had ever been satisfactorily refuted. It was true the right of kings had been maintained,

and Buchanan and Parsons had been confuted by many learned writers of that day, but none of them had ventured to deny the natural liberty and equality of men. This Filmer considered to be the radical error, the one fundamentally false principle on which the whole fabric of sedition was built. It needed but to overthrow this sophistry, and there remained no longer the shadow of an apology for any description of treason whatsoever.

If Bellarmine's view were just, he maintains that a democracy would necessarily be the only lawful government; all monarchies and aristocracies would be usurpations on that supreme power of the people with which they were originally endowed by God. The Cardinal's logic even involved this absurdity, that though an absolute democracy was the ordinance of God, the people had no power to use the power God gave them; they had only power to give it away to one or more persons who should be kings or rulers, to whom they then became bound by the same law of nature that originally made all men alike. Yet even this obligation was not consistently maintained. "It depends," said Bellarmine, "upon the consent of the multitude to ordain over themselves a king, or consul, or other magistrates; and if there be a lawful cause, the multitude may change the kingdom into an aristocracy or democracy." Thus the defenders of the natural liberty of the subject had to maintain, first, that no man was naturally under subjection to any power whatever; secondly, that the multitude

could not but dispose of their natural sovereignty to one or more rulers ; and thirdly, that though bound to those rulers they could change them (that is to say, they were bound and yet not bound).

But then this change was to be made only for a lawful cause. Who was to be the judge of its lawfulness ? If the decision lay with the multitude themselves, the doctrine was evidently dangerous, and might give direct encouragement to sedition.

But what were the arguments, after all, produced in behalf of this doctrine of natural liberty ? In all the writers whom he had consulted, Filmer had only been able to meet with one, which was stated by Cardinal Bellarmine as follows :—"That God hath given or ordained power is evident by Scripture ; but God hath given it to no particular person, because by nature all men are equal ; therefore he hath given power to the people or multitude." But Bellarmine himself had practically denied this doctrine of the natural equality of men on which the theory of natural liberty was founded. "If many men," said the Cardinal, "had been together created out of the earth, they all ought to have been princes over their posterity." So then it seemed nature did not make all men alike, but made each man prince of his posterity. Thus, not only Adam, but the patriarchs, had exercised royal rights over their children. The natural condition of mankind, therefore, was not one of democratic equality, but of patriarchal government. Adam was lord paramount, so long as he lived, over his children's

children to the latest generation, and regal authority was an ordinance of God himself, founded upon the subjection of a family to its head.

Thus civil power was really of divine institution, especially that which was handed down in succession from eldest parents ; and there was no room left for any such compact between king and people as philosophers, even in Filmer's day, had begun to dream about. Instances are then cited from the Old Testament to show that the patriarchs exercised the power of life and death in their own families, commanded armies of their own kins, made treaties, and ratified them with oaths. The world was divided, after the flood, among the three sons of Noah ; and in the further dispersion of his descendants at the building of the Tower of Babel, " we must certainly," says our author, " find the establishment of regal power throughout the kingdoms of the world."

This, no doubt, was building a great deal on small and insecure premises. If it was meant to insist that King James was the true lineal heir of the patriarchs, or of any of Noah's grandsons, it hardly required Locke to answer it, or Lord Macaulay to devote three pages of his *History*¹ to point out the weakness of such an argument. It was a theory only worthy of Bedlam. Sir Robert knew as well as any man that usurpations were not uncommon facts in history ; that even in that of the Jews, Jacob was not the eldest son of Isaac,

¹ *History of England*, vol. i. pp. 70-73.

and that in that of England there had been many departures from the strict line of hereditary descent. Nor was he so foolish as to uphold a principle which would make allegiance due only to some unknown heir of Ham, Shem, or Japhet. He admits that princes have owed their power sometimes to usurpation and sometimes to election ; he even admits that sovereign power belongs sometimes to a body of men instead of to an individual ; but in all these cases, he maintains, it is still the natural authority of a father. " There is, and always shall be continued to the end of the world, a natural right of a supreme father over every multitude, although, by the secret will of God, many at first do most unjustly obtain the exercise of it." The actual king, therefore, has a divine right over his subjects, even though his ancestors or even he himself may not have obtained it fairly. " If it please God," says our author again, " for the correction of the prince, or punishment of the people, to suffer princes to be removed, and others to be placed in their rooms, either by the factions of the nobility, or rebellion of the people ; in all such cases the judgment of God, who hath power to give and take away kingdoms, is most just ; yet the ministry of men who execute God's judgments without commission is sinful and damnable." And who can say that a view like this is irrational ?

But what if the king died and left no heir ? Did not the kingly power devolve to the people then ? The answer was, that there must always be a true

heir, and it argued negligence on the part of the people to lose sight of him ; but it did not follow that the power devolved upon the multitude. It escheated in such cases "to the prime and independent heads of families." Families were the elements of a kingdom ; it was by a union of great families or petty kingdoms that larger monarchies were originally formed, and into such they were sometimes again resolved by the course of events. Wherever, therefore, the true line of inheritance became involved in obscurity, it lay with those prime heads of families to confer the crown on whom they pleased ; "and he that is so elected," says Filmer, "claims not his power as a donative from the people, but as being substituted properly by God, from whom he receives his royal charter of a universal father, though testified by the ministry of the heads of the people."

There is here implied a divine right of aristocracies as well as of monarchies ; yet even the nobility could hardly claim to be lineal successors of the patriarchs. Kings, however, had a right to remedy the defects of obscure lineage, and most princes had thought fit at times to adopt as heads of families, or create peers, such as seemed qualified for the position by their special merits or fortune.

Such was the theory of Sir Robert Filmer touching the origin and authority of civil government,—a theory which it seems to me quite as easy unduly to depreciate as it proved possible to over-magnify it in the seventeenth century. To say that a right originally derived from Adam, although diverted by

old usurpations from its natural channel, and restricted within particular geographical limits, had come at last to reside in the Stuart family, seems to my mind far less unphilosophical, and even far less dangerous, than the favourite sophistry of platform orators that power is derived from the people. It is, no doubt, rather a fanciful foundation on which to rest a true sentiment of loyalty. But admitting this, there was surely something in Filmer's view of the relation between king and subjects not unworthy of respectful consideration. For such a view, if it had been truly weighed, by no means countenanced extravagance in practical policy. The analogy which Filmer sought to establish between the authority of a king and that of a father ought itself to have prevented this. Is a father's command to be absolutely obeyed even when it is capricious, foolish, and unjust? Are there no limits to paternal sway, even when sons have grown up and fathers have grown feeble? The relation between ruler and ruled does resemble that between father and son,—much more, I venture to think, than that of parties to a 'contract, as Hobbes and Locke represented it to be. The best answer that could have been made to Tories and Jacobites ought to have been found in Sir Robert Filmer's argument.

J. G.

VIII.

SUNDAYS ANCIENT AND MODERN.¹

THERE is no point in which the every-day life of England differs more from that of other countries than in the observance of Sunday. Abroad it is a day of excitement and recreation. Theatres are open, horse-races are held, and public amusements of every kind are even more frequented than on week-days. Protestantism itself, on the Continent, is free from English austerity, and the most respected citizens of Calvinistic Geneva while away the Sunday evening with cards and chess. In England everything like recreation is forbidden, or looked upon as impious and vulgar; and as we go northwards the severity increases, till in Scotland it reaches the extreme.

This result is commonly attributed to the Reformation, and it is believed that, in Scotland especially, the influence of Knox had much to do with it. But the truth is, the movement in favour of Sabbatical austerity was a thing quite apart from the Reformation. It began at a much earlier period, yet

¹ This paper is reprinted without alteration from *Fraser's Magazine* for February 1866, and contains, as will be seen, some allusions to occurrences which were then of recent date.

had produced little or no practical effect long after the Reformation had been fully established. We must therefore look for its first cause before the sixteenth century, and for the cause of its triumph at a later date.

The inquiry into this subject has a peculiar interest at the present time. Within the last few years questions have been raised in each part of the United Kingdom respecting particular modes of observing the day—whether public gardens and museums should be open, whether bands of music should be allowed to play, and whether railway trains should be allowed to run. In Scotland the great question of Sunday trains has had the effect of opening up the whole subject; so that the arguments, both of religion and expediency, have been far more fully discussed than they ever were before, and the entire theology of the Sabbath is beginning to assume an aspect quite unlike that in which it is still too commonly presented.

That railways should affect theology need not appear a marvel. When all their good effects come to be reckoned up, it will perhaps be found in another generation that they have produced a third Union between England and Scotland. Greater than either the Union of the crowns under James, or the Union of the kingdoms under Anne, will be that Union of the people under the Iron King. Even now it seems as if a barrier were removed, and the great tide of human intercourse pours healthily through the island,—not *all* from north to

south, as was jestingly said of yore. Scotland has happily lost her geographical and social isolation : she is no longer an *Ultima Thule*, left to work out her own social problems unheeded by the rest of the world. She receives the visits of Englishmen, and listens to their comments. She sends forth her sons to travel, and profits by their observations. It is undeniable that within the last twenty years English opinions and habits have made in Scotland quite unprecedented progress ; and the necessity of improved intercourse with England has been the chief cause of the relaxation, now evidently begun, of the severity of the Scottish Sunday.

It is not that there is much difference between the two countries in their ideas of Sabbatical observance. The Common Prayer Book of the Church of England treats the Decalogue as a code no less binding upon Christians than it was upon the Jews of old. This is the view of the great majority of Englishmen, and a higher could not be taken by the most rigid Presbyterian. The difference between the Englishman and the Scot appears most in the degree to which they carry out their principles. The former, for the most part, easily satisfies himself with the reflection that there must always be a difference between theory and practice. With a happy inconsistency, he can drive to church, employing both servants and cattle unnecessarily, pray devoutly that the Lord may incline his heart to keep the Jewish Sabbath, and at dinner express his contempt for the Pharisees in the north who try to

best not only to act up to them himself, but to promote their observance by others. Hence the inquisitorial tyranny of kirk-sessions, which public opinion in Scotland at one time tolerated. Hence the warm struggle which we witness there at present, between new and old ideas on the Sabbath.

Scotland is, in fact, at present trying to make up its mind whether the Sunday be a divine or human institution. A few years ago the answer would have been almost unanimous from the whole country, that Christians were bound no less than Jews to "remember the Sabbath-day, to keep it holy." But a few years have made a great difference, and the constant ventilation of the subject by those who have long contended for freedom from Sabbatical constraint has at length begun to affect the ideas of the whole community. The opinion is now expressed both by divines and laymen that the Christian Sunday is not a substitute for the Jewish Sabbath, and that its observance must be governed by expediency, not by the Mosaic law. The opposite party, indeed, are still in a majority, but they differ with courtesy, and like men who know that it is an open question; while the views of those who repudiate the Jewish ordinance are daily gaining ground. The striking speech of Dr. Norman Macleod, delivered in the Glasgow Presbytery in November last,¹ in which he denied that the Decalogue was binding upon Christians, except in

¹ This was in the year 1865. Dr. Norman Macleod died seven years later, in 1872.

so far as it accorded with the law written in men's hearts by nature, is not the least remarkable sign of the times. Dr. Macleod, the accomplished editor of *Good Words*, is well known as a very orthodox, albeit a very liberal divine. Two of his brethren in the Presbytery expressed their concurrence with his views; and it is not unknown that others of the Scottish clergy have of late proclaimed the same opinions from the pulpit.

Some, perhaps, may be of opinion that England has little reason to interest herself in this Scottish controversy. From the general tone of London newspapers and conversation, whenever the subject is mentioned, it is evident that Englishmen in general believe they have not much to learn from studying it. They laugh at Scottish superstition, and thank God they are not so steeped in bigotry as their northern fellow-countrymen.¹ We cannot think this feeling is a just one. What both countries have to unlearn is that Puritan theology of the Sabbath which turns what should be a day of cheerfulness into a day of gloom, and against

¹ Even so intelligent a newspaper as the *Spectator*, in commenting upon Dr. Norman Macleod's speech above referred to, spoke of it as a thing that must have required a degree of moral courage in the speaker almost equal to that of a martyr; and that it would have been nothing wonderful if the reverend doctor had been assailed with stones or vitriol in the streets for his boldness. We are far from denying that it must have required real courage of a very high order on Dr. Macleod's part to make such a speech; but to talk of it in such a fashion is about as absurd as the late Mr. Buckle's expressed fear of drawing upon himself "the enmity of a whole nation" by his criticisms on Scotch peculiarities. Railways and penny postage notwithstanding, it is wonderful how little even at this day the two countries really understand each other.

which the reaction has visibly commenced, even more decidedly in Scotland than in England. How this austere theology arose in such a country as ours, how long it was resisted, and how, ultimately, it triumphed over opposition and fastened its bitter yoke upon the nation, are among the most curious phenomena in English history. Mr. Cox's recently published work on *The Literature of the Sabbath Question*,¹ gives a most complete catalogue of all that has been written on the theology of the subject from the earliest times down to the present day, with an analysis of every important treatise, by means of which the subject can be very thoroughly investigated by any one who will devote to it a little leisure. We purpose, in the following remarks, only to give a few illustrations.

It is unquestionable that the writings of the early Fathers, and of the philosophers and theologians of the middle ages, universally speak of the Jewish Sabbath as abolished with the other Jewish institutions. Notwithstanding this, some have weakly contended that it is still possible they might have believed in the continued existence of a Sabbath instituted at the creation. But as they confess themselves unable to quote a syllable in support of such a view, it seems unnecessary to give it serious attention. The only Christian Sabbath which the Fathers recognised was a spiritual one, consisting either of rest from evil works, or the rest

¹ *The Literature of the Sabbath Question*, by Robert Cox, F.S.A. Scot. Edinburgh: Maclachlan and Stewart. 1865.

that remained to the faithful in a future life. These, indeed, were Sabbaths to Christian souls, of which the primeval and the Mosaic Sabbath were but types. The Lord's day they regarded as an independent institution, commemorative of the resurrection of Christ, but not instituted by His authority or that of His apostles. It was simply an ordinance of the Church, resting, not upon the scriptural foundation alleged by Protestants—for Scripture really says not a word about its institution,¹—but upon the Church's own authority and traditional observance. And so it was regarded also throughout the middle ages.

We know too little of the social life of those ages to be able to state minutely the points of usage wherein Sunday differed from other days. But in times when religion was more showy than it is now, a day of a specially religious character could not have appeared gloomy. Fairs and markets were held on Sunday, the former being an institution originally of a half sacred character, celebrated in the immediate vicinity of the church, sometimes in the churchyard. In the churchyard, also, tournaments were held. Plays were acted in the church

¹ The attempt to seek a scriptural authority for it in the Apocalypse (Rev. i. 10)—“I was in the spirit on the Lord's day”—only shows the miserable weakness of the argument which would plead such warrant for observing Sunday instead of Saturday. It can hardly be doubted that the “Lord's day” here (*ἡ κυριακὴ ἡμέρα*) is synonymous with “the day of the Lord” (*ἡμέρα Κυρίου*) spoken of elsewhere, that was to come like a thief in the night, and that St. John is describing himself as beholding spiritually what was going to take place upon that day. But even if this be not the meaning, it is manifest that the text will not bear the weight of the argument.

itself, though forbidden by the canon law;¹ but considerations of place apart, no law whatever forbade their being acted on Sunday. Kings were almost invariably crowned on Sunday, or on some high festival like Christmas or Ascension Day.² For all kinds of merriment and for all kinds of pageants, Sunday was regarded as a most appropriate day. Nor had the practice altered in this respect in the age of the Reformation. Let us look at it in the country now proverbial for Sabbatarian strictness. "Sunday, indeed, in that age," says Mr. Joseph Robertson, whose remarks have special reference to Scotland, "was the day generally chosen for mirth and revel. It was on a Sunday that the Reformed Commendators of Holyrood and Coldingham, both of them Lords of the Congregation, rode at the ring in women's clothes. It was on a Sunday that the Reformed municipality of Edinburgh gave its grand banquet to the queen's French kinsfolk. Knox travelled on a Sunday, wrote letters on a Sunday, and had the Duke of Chatelherault and the English ambassador to sup

¹ Stevenson's *Chronicon Monasterii de Abingdon*, preface to vol. ii. p. lxxxiii.

² The following were the coronation days of the kings of England from William the Conqueror to Edward III. :—William I., Christmas Day 1066; William II., Sunday, 26th September 1087; Henry I., Sunday, 5th August 1100; Stephen, Thursday, 26th December (being St. Stephen's Day, whose name the king bore) 1135; Henry II., Sunday, 19th December 1154; Richard I., Sunday, 3d September 1189; John, Thursday, 27th May (being Ascension Day) 1199; Henry III., Friday, 28th October (Feast of St. Simon and St. Jude) 1216; Edward I., Sunday, 19th August 1274; Edward II., Sunday, 25th February 1308; Edward III., Sunday, 1st February 1327.

with him on a Sunday. The Gaelic translator of Knox's *Forms of Prayers*, the Reformed Superintendent of Argyle, and the Bishop of the Isles, feasted the queen and the ambassador of Savoy on a Sunday. For more than twenty years after Knox was in his grave, Robin Hood plays were acted on Sundays, and the King of May held his gambols on Sundays in Scotland; as in England, masques and interludes continued to be performed before the Court on Sundays, throughout the reigns of Elizabeth and James."¹

With regard to industrial occupations, there was probably a very general, though not universal suspension of labour, both on Sundays and on other holidays of the Church. Among the Anglo-Saxons, indeed, we find laws against marketing, hunting, and various kinds of servile and agricultural labour on Sundays.² Among them the day was at first reckoned to begin on Saturday evening, and afterwards was counted from noon on Saturday to the dawn on Monday!³ But after the Norman Conquest the practice became less strict, as the almost total absence of legislation upon the subject might alone suffice to indicate. The usage was probably much like that of the ancient Roman holidays, on which, as we learn from Virgil, certain kinds of labour were recognised as permis-

¹ Preface to *Inventaires de la Roynne d'Escoce*, published by the Bannatyne Club, p. lxxix.

² Thorpe's *Ancient Laws and Institutes of England*, pp. 17, 45, 131, 136, 139, 147, 157, 298, etc.

³ *Ibid.* pp. 17, 112, 157, 298, 450.

sible.¹ Until we come to the days of the Lollards, the only piece of Sunday legislation on the Statute-book is an Act of the 28th year of Edward III. (cap. 14), which provides "that showing of wools shall be made at the staple every day of the week except the Sundays and solemn feast-days of the year." But within a century from that date, Lollard earnestness had begun to tell even upon Churchmen. In 1444, Archbishop Stafford decreed that throughout the province of Canterbury no fairs or markets should be held in churches or churchyards, or on Sundays and feast-days, except during harvest time. In the same year the first attempt appears to have been made—and a miserable failure it proved—to institute a Puritan observance of Sunday in the metropolis. An Act was passed by the Common Council, as we learn from Fabian, "that upon the Sunday should no manner of thing within the franchise of the city be bought or sold, neither victual nor other thing, nor none artificer should bring his ware to any man to be worn or occupied that day, as tailors garments or cordwainers shoes, and so in likewise of all other occupations; the which ordinance held but a while."²

That this movement in favour of a more strict observance of the day arose out of Lollard theology

¹ See *Georg.*, lib. i. v. 268:—

Quippe etiam festis quædam exercere diebus
Fas et jura sinunt. Rivos deducere nulla
Religio vetuit, segeti prætereundum sepem,
Insidias avibus moliri, incendere vepres,
Balantumque gregem fluvio mersare salubri.

² Fabian's *Chronicle*, p. 617.

is a proposition that we have taken for granted without any direct evidence of the fact ; for, strange to say, Pecock's elaborate answer to the Lollards contains not a word upon the subject of Sunday. The reason may be that Pecock's object was only to defend the ordinances of the Church, not to rebuke superstitious observances on the part of the Lollards themselves. But the probability is that the Sabbatarian doctrine had not as yet become of sufficient consequence to call for an examination. The Church unquestionably had always observed one day in seven in a specially religious manner. The Lollards, who asked of every ordinance, "Where groundest thou it in Scripture?" could not overlook the injunction contained in the Fourth Commandment ; and it was easy for an age of little theology to confound the Christian festival with the Jewish Sabbath. Unquestionably, if the Lollards had regarded the observance of Sunday as resting only on the authority of the Church, they would have taken special pains to violate it in the most flagrant manner. They would have classed it with the other abuses of tradition—with Saints' days, pilgrimages, images in churches, and all those other noxious superstitions which they were anxious should be thoroughly rooted out. But here were most positive words of Scripture enjoining the keeping of one day holy, and the clear tendency of Lollard teaching was to carry out the scriptural command to the letter.

Nor is it at all improbable that this uncritical view

may have spread beyond the limits of the Lollard sect. It would almost seem, from the manner in which it was denounced by Luther and the other Continental Reformers, that the Catholic world itself had become impregnated with this doctrine to some extent; but, however that may be, it is certain that the progress of practical Sabbatarianism before the Reformation was extremely slow. In 1449 an Act was passed, similar in effect to the decree of Archbishop Stafford, that "considering the abominable injuries and offences done to Almighty God and to His saints," owing to fairs and markets being held on Sundays and Saints' days, no goods should be in future exhibited for sale at fairs on such days, except "necessary victual." This prohibition, however, was not to apply to "the four Sundays in harvest." Those lords of manors and others who were empowered by old charters to hold fairs on Sundays and holidays were permitted by this Act to hold them three days before or three days after. They do not seem to have all at once availed themselves of the permission, and it was a question for some time how the law was to be understood. But it was ruled by Justice Bryan, in the time of Edward IV., that no sale was valid that was made upon a Sunday, even though it took place in a fair or open market. A century later, in the reign of Elizabeth, Ploydon was of opinion that the lord of any fair or market kept upon a Sunday might be indicted for allowing it.¹

¹ Heylin's *History of the Sabbath*, vol. ii. p. 231.

In the fourth year of Edward IV. an Act was passed touching the making of shoes, which was mainly directed against the ridiculous fashion of wearing long peaks at the toes. By one clause, however, it was enacted "that no person, cordwainer of the city of London, or within three miles next about the same, upon any Sunday of the year [or] in the feasts of Nativity or Ascension of our Lord, or Corpus Christi, should sell, command, or make to be sold, any shoes, boots, or *galoges*, or upon any of the said Sundays or feasts should put upon the feet or legs of any person or persons any shoes, boots, or *galoges*, upon pain to forfeit and lose 20 shillings sterling." An invidious proviso was, however, inserted, that the Act "should not extend to the damage or prejudice, nor in any manner be hurtful to the dean and chapter for the time being of the free Chapel of the king of St. Martin's-le-Grand of London, nor to any persons dwelling in St. Martin's Lane in London, or within any place or places within the precinct, fee, or franchise of the said dean and chapter." St. Martin's-le-Grand was a noted sanctuary, and the effect of the proviso could only have been to extend to debtors and fugitives from the law privileges which were denied to the loyal citizens of London—an injustice that was so strongly felt that the Act was repealed in Henry VIII.'s time.

This is all the Sunday legislation that appears upon the Statute-book prior to the Reformation; and, judging from these indications, it must be

owned that the feeling as yet was by no means strong in favour of a general suspension of labour. Even weaker was the feeling against Sunday recreation. Here and there, perhaps, even in that early time, a few might have kept the day more strictly than their neighbours. It was remarked as a specially religious feature in the conduct of James IV. of Scotland that he never rode on Sundays, even to mass, and never ate meat on Wednesdays or Fridays.¹ But if any one who adopted such austere views had endeavoured to make others also conform to them, he would assuredly have met with the Shakespearean rebuff, "Dost think, because thou art virtuous, there shall be no more cakes and ale?" Not only was this the spirit that prevailed during the age of the Reformation, but it was that which actuated the leading Reformers themselves. Luther, in particular, denied most emphatically the authority of the Decalogue as a law to Christian men.² And Melancthon, Calvin, Cranmer, and, as we may presume from his conduct, Knox, all held with him that the Sabbath was only a part of the ceremonial law of Judaism which was abrogated by Christianity. Calvin even declared his opinion that the Church

¹ Bergenroth's *Calendar of State Papers relating to the Negotiations between England and Spain*, vol. i. p. 169.

² "The Ten Commandments," says Luther, in treating of the authority of the Lord's day, "do not apply to us Gentiles and Christians, but only to the Jews. If a preacher wishes to force you back to Moses, ask him whether you were brought by Moses out of Egypt."—See Cox, vol. ii. p. 383. Again: "The Gospel regardeth neither Sabbath nor holy days, because they endured but for a time, and were ordained for the sake of preaching, to the end God's word might be tended and taught."—Luther's *Table Talk* (Bell's Edit.), p. 357.

was not bound to number its days by sevens, and that a community might alter the day from Sunday to Thursday if it pleased.¹ It was at a somewhat later date that, in England, Aylmer, Bishop of London, was accused of breaking the Sabbath by playing at bowls, and justified the practice by saying that if a man might have his meat cooked that day for the sake of his health, it could be no sin to exercise his body for the same cause.²

The estimation in which the Sunday was held at the beginning of James the First's reign is shown by a proclamation which he issued on the 7th of May 1603, stating that "whereas he had been informed that there had been in former times a great neglect in keeping the Sabbath-day; for better observing of the same, and for avoiding of all impious profanation of it, he straitly charged and commanded that no bear-baiting, bull-baiting, interludes, common plays, or other like disordered or unlawful exercises or pastimes be frequented, kept, or used at any time hereafter upon any Sabbath-day."³ Abuses like these were of old standing. Twenty years before this—on Sunday, the 13th of January 1583—eight spectators were killed and many hurt by the sudden fall of the scaffolds in Paris Garden.⁴ The city of London, indeed, which seems always to have taken the lead in the movement for a stricter observance of the day, had, three years before this occurrence, obtained from Queen Elizabeth power to

¹ Heylin, vol. ii. pp. 175, 181.

² Strype's *Aylmer*, p. 142.

³ Heylin, vol. ii. p. 257.

⁴ Holinshed, vol. iii. p. 1353.

prohibit plays from being acted that day within its liberties ; but as the Lord Mayor had no control on the other side of the Thames, Londoners in search of Sunday excitement had only to cross the water and see beasts fighting and tearing each other to their hearts' content. The degrading character of such spectacles must have added considerable weight to the arguments of those who protested against the violation of the day ; so that it is no wonder the royal authority was appealed to on this, among other subjects of ecclesiastical importance, in the conference held by James I. at Hampton Court, in the beginning of his reign.

But meanwhile a set of men had risen up who looked upon all forms of recreation on Sunday as sinful, and sought to put an end to a number of innocent amusements in which the people had been accustomed to indulge from time immemorial. "It is almost incredible," says Fuller, "how taking this doctrine was, partly because of its own purity, and partly for the eminent piety of such persons as maintained it ; so that the Lord's day, especially in corporations, began to be precisely kept, people becoming a law to themselves, forbearing such sports as yet by Statute permitted ; yea, many rejoicing at their own restraint herein. On this day the stoutest fencer laid down his buckler ; the most skilful archer unbent his bow, counting all shooting beside the mark ; May-games and morris-dances grew out of request ; and good reason that bells should be silenced from jingling about men's legs, if their very

ringing in steeples were adjudged unlawful.¹ Some of them were ashamed of their former pleasures, like children, which, grown bigger, blush themselves out of their rattles and whistles. Others forbore them for fear of their superiors; and many left them off out of a politic compliance, lest otherwise they should be accounted licentious.”²

Unhappily, however, this praiseworthy self-denial was accompanied by strong efforts on the part of those who practised it to restrain the liberty of others. When King James, after his visit to Scotland in 1617, was returning southwards through Lancashire, complaints were made to him that, through the indiscretion of magistrates and puritanical clergy, the people were debarred from the enjoyment of lawful amusement and recreation upon Sunday afternoons. On this the king took counsel with Dr. Morton, the bishop of the diocese, rebuked the meddlers, and drew up an ordinance for the regulation of Sunday pastimes, to prevent their interfering with Divine Service or becoming a public nuisance. After public worship every man was to be free to enjoy himself. Men and women might dance; Maypoles might be set up; archery, Whitsun-ales, and morris-dances were not to be forbidden. At the same time, bear and bull baitings were strictly prohibited, together with other unlawful

¹ Dr. Nicholas Bound, who was the first clearly to enunciate the Sabbatarian principles of the Puritans, in a treatise published in 1595, maintained, among other things, that the ringing of more bells than one on a Sunday was not justified.

² Fuller's *Church History*, vol. v. pp. 214, 215.

sports, among which, we read with some surprise, was one "in the meaner sort of people by law prohibited—bowling."

Such was the purport of the celebrated *Book of Sports*, an ordinance which has been absurdly represented as commanding, instead of merely permitting, Sunday recreations. The reason which induced the king to issue it, as stated in the document itself, was that the unwise interference with these sports was calculated to produce two evils ; first, to bring discredit on the Church of England and hinder the conversion of many from Catholicism, under the impression that the religion of the State was opposed to innocent mirth ; and second, that the lower classes would have no opportunity for such exercises as would fit them to become good soldiers when the king had occasion for their services ; in default of which they would be driven to tipple in ale-houses, get drunk and talk sedition. There were many, however, to whom the *Book of Sports* was offensive, especially when, at the suggestion of Laud, it was re-issued by Charles I., and ordered to be read in churches. Several of the clergy refused to read it, and were suspended or deprived of their livings ; and the people, who had for more than a generation been taught to respond in church to each of the Ten Commandments, sympathised more and more with the tender consciences.

Thus Sabbatarianism became one of those popular sentiments which Charles I. unwisely outraged and turned against himself. The Sabbath became hence-

forth one of the leading doctrines of Puritan theology, and with Puritanism it must now stand or fall. Had the controversy been left in peaceful times to the dispassionate appeal of reason, the growth of the new doctrine would certainly have been less rapid; but in the heat of a great struggle men cannot accept everything upon its own merits. All that was good in Puritanism, and all that was bad in it, was equally called upon to do battle with what was good and bad in the principles of the opposite party; and the only course which any man could pursue amid the heat and tumult of events was but to choose his side and stick to it through thick and thin. Still, during the few brief years before the outbreak of hostilities, attempts were made to bring the Puritans to reason by better arguments than the Star Chamber and the Court of High Commission. The ablest theologians of the day wrote in defence of Christian liberty, and the literature of the Sabbath controversy soon became voluminous. Between the re-issue of the *Book of Sports* by Charles the First in 1633, and the meeting of the Long Parliament in 1640, the question was discussed in various treatises by Bishops Prideaux, White, Sanderson, and Ironside; by Heylin, in his learned *History of the Sabbath*; and by Dr. Pocklington, in a sermon which excited much attention, entitled, "Sunday no Sabbath." So thoroughly was the subject exhausted by these writers, that in all the literature of the last two centuries it would be impossible to point out a single fact or argument

prevent Sunday travelling. But the Scotchman, if it were only for appearance sake, must make some attempt to reconcile his principles and his practice ; and if he sincerely believe the former, he will try his bearing upon the authority of the Sabbath which has not been fully discussed by the divines of Charles the First's time. But when the Long Parliament met, he would have been a bold man who ventured to write against the Puritanic Sabbath. Dr. Pocklington's sermon and treatises of the like description were ordered to be burnt by the common hangman ; and those who disliked Sabbatarian austerity were obliged to hold their peace.

From this time the national observance of the day was altered. There was an end to merry Sunday games and gatherings round the Maypole. Small cause indeed had any one to be light-hearted in the days that were at hand. But when the civil war was over, the strict keeping of the Sabbath was for the first time enforced by Cromwell's Parliament. The Sunday Act of 1657 forbade all travelling and resort to ale-houses, dancing, and playing on instruments, "profane walking" and carrying burdens, besides the pursuit of men's ordinary callings. Its authors had even introduced words against "idle sitting, openly, at gates or doors," and had proposed to give constables power to enter men's houses to see that the Act was observed at home as well as in the streets ;¹ but the former clause was rejected as

¹ Burton's *Diary*, vol. ii. pp. 267, 268.

too severe, and the latter was restricted in its operation to the inspection of public-houses and tobacco shops. Even with these abatements the Act was severe enough ; but considering the opinions entertained by some, it could not be called extreme. Nor did the severity of legislation even at that time pass without protest. "These laws," said Colonel Holland, in the debate, "are always turned upon the most godly. . . . The last bill for the Lord's day, I remember, was passed on a Saturday, and carried on with great zeal. Then I told them they had tied men from coming to church by water and coach. Next day I, coming to Somerset House to sermon, had my boat and waterman laid hold on for the penalty." Subsequently, on the question whether Sabbath should be counted from midnight to midnight, the same speaker remarked : "I am not satisfied in the time. Divers godly people are unsatisfied about the institution of the day. And as to time, it is likewise scrupled by many godly men, who think that only twelve hours is the Sabbath-day. . . . I was once when I would have gone to six or seven sermons a day. I am not so now. I do not make so much conscience of it now, but do think that I may serve God as well at home with godly servants, and other people."¹

Even under Cromwell the austerity was not so great as that of the sects which had just before those days emigrated to the New World, for freedom to worship in their own way. The following enact-

¹ Burton's *Diary*, vol. ii. pp. 262-264.

ments,¹ we are told, were contained in the first draft of the laws of Massachusetts, as drawn up by John Cotton, a Puritan minister, who had emigrated from Boston, in Lincolnshire :—

“Whoever shall profane the Lord’s day by doing unnecessary work, by unnecessary travelling, or by sports and recreations, he or they who so transgress shall forfeit forty shillings, or be publicly whipped; but if it shall appear to have been done presumptuously, such person or persons shall be put to death, or otherwise severely punished at the discretion of the court.

“No one shall run on the Sabbath-day, or walk in his garden or elsewhere, except reverently to or from meeting.

“No one shall travel, cook victuals, make beds, sweep house, cut hair, or shave, on the Sabbath-day.

“No woman shall kiss her child on the Sabbath or fasting day.

“If any man shall kiss his wife, or wife her husband, on the Lord’s day, the party in fault shall be punished at the discretion of the magistrates.”

Some of these extraordinary enactments appear actually to have been included in the early laws of Connecticut, where it was also ordained that the Sabbath should begin at sunset on Saturday. Thus

¹ Quoted by Mr. Cox in his earlier work, entitled, *Sabbath Laws and Sabbath Duties*, pp. 561, 562. See also note by him as to the genuineness of these enactments in Hesse’s *Bampton Lectures*, p. 467.

did men who rebelled against even the shadow of ecclesiastical authority, forge to themselves chains out of the letter of the Scriptures. They were determined to make their commonwealth the very opposite of Laud's ideal. The Bible was to be their only rule of life. All mere traditions of the Church were to be abolished; all customs, even of the most harmless kind, that had no Scripture warrant, were to be prohibited. It was made penal to keep Christmas, or even to make mince-pies. No minister of the gospel was to join people together in marriage; the civil magistrate must do it, to prevent scandal to the Church.¹ Out of such rebellion against ecclesiastical tradition grew the bitterness of Puritan Sunday.

It is remarkable how exclusively English was this idea of making the Decalogue a law of Christian morality. It was not, as we have seen, either Lutheran or Calvinistic; and, as we shall presently show, it was not, at the outset, even Scotch. On the Continent, the Sabbatical view of Sunday came after a time to be imported from England, but could never be enforced. Sir William Brereton, who travelled through Holland in the year 1634, was scandalised at the practice at Rotterdam. "Here," he says, "is little respect had to sanctify the Sabbath; the young children, girls, walked all the Sabbath, in the afternoon, with cups or tins in their hands. They were about five or six years of age; others elder, about ten, and thirteen, and

¹ *A General History of Connecticut* (1781), pp. 65-68.

fourteen years of age, guided these little ones, and sung, screaming, and squeaking, and straining their voices. Such as they met gave them money, which they put in the cups, which was intended to buy a wassail cup—a carouse. This they continued all Monday.¹ Further on he remarks:—"Mr. Peters, the minister of the English here, informed me a religious burgomaster two years ago endeavoured to reform the profanation of the Sabbath, and imposed and collected, by distress or otherwise, one guilder from every man trading or working on this day. At length the brewers, whereof are abundance in this town, made a head, came into the Stadthaus, and in a mutinous manner told the burgomaster that they would not be subject unto his new laws; and hereby quashed all formerly effected, and the hoped-for reformation came to nothing."²

With regard to Scotland, we have the evidence of Heylin, writing in the time of Charles the First, that Sabbatarianism was imported into that country from England, and was by no means at that time so firmly established in the northern kingdom as it was south of the Tweed. "However, in the greater towns," he says, "they do observe the Sunday very precisely, according as our men [the Puritans] would have it; yet in the villages and smaller places of the country they keep it not with that solemnity as the common people do with us. For in many of those villages and the like places, they have not only no public meetings at the

¹ *Chetham Society's Remains*, vol. i. p. 6.

² *Ibid.* p. 10.

church in the afternoon, but spend the whole time either in their businesses or their pleasures, as occasion is : whereof I have been well assured by sundry natives of that kingdom, of good faith and credit.”¹

The slow progress of Sabbatarian ideas in Scotland is further attested by documents. “From the date of the Reformation downwards,” says Mr. Cox,² “the records of the Town-Council of Edinburgh afford many proofs of the difficulty with which the people were drilled into abstinence from work and recreation on the first day of the week. For many years the civic ordinances are directed against such occupations in time of public worship only ; but ultimately, even walking in the public parks and on the Castle Hill at *any* hour on Sunday was strictly prohibited, though, it appears, with very incomplete success.” Mr. Cox goes on to quote the very words of these ordinances, of which we will here briefly note the effect. The first, dated 30th October 1560, is a general prohibition of Sunday marketing and traffic, to prevent which the flesh and cattle markets, hitherto held on Sunday, were to be henceforth on Saturday and Thursday respectively. All taverns were to be closed, and “all persons astricted to be present at the ordinary sermons as well afternoon as before noon, and that from the last jow of the bell to the said sermons to the final end.” In 1581 is a proclamation against games and plays commonly used on Sunday, “such

¹ Heylin, part II. chap. viii. § 12, quoted by Cox, vol. i. p. 475.

² *Literature of the Sabbath Question*, vol. i. p. 468.

as bowling in yards, dancing, playing, running through the High Street of hussies, bairns, and boys, with all manner of dissolution of behaviour." In 1583 the "neighbours of this burgh" were forbidden, under a penalty of £10, to attend the Sunday markets of Tranent, Musselburgh, and Dalkeith. In 1584 all freemen and their wives were enjoined, under special penalties, to be found henceforth in their own parish kirk every Sunday, and not absent themselves, going to their pastime or to other kirks. From 1585 to 1587 are no less than five new ordinances, but only against irregularities "in time of preaching," which continued notwithstanding previous enactments. In 1588 the town trumpeter was ordered to prison and put in irons for passing to May-plays on Sundays at Kirkliston.

In 1591 we meet with another attempt to put down Sunday taverns and marketings; in 1592, a proclamation against playing at golf, archery, "row bowls, penny stane, kaitchpullis,¹ or sic other pastimes;" and another against travelling on Sabbath with wares for Monday's market. In 1611 the gathering of reapers in the streets on Sundays to be hired was considered a cause of the day being profaned, and these meetings were ordered to be held outside the West Port. In 1648 a proclamation was ordered to prohibit excessive banquetings on Sundays, at christenings and on other

¹ "*Pennystane*—a flat stone, used as a quoit." "*Cachepole* or *Catchpule*—the game of tennis."—(Jamieson's *Scottish Dictionary*.)

occasions. In 1650, 1659, and 1693, are ordinances against strolling in the streets and other irregularities.

But what gave the Sunday in Scotland its special severity was the inquisitorial power of a Presbyterian Church. In England the Reformation was the work of the Crown, and by placing the Church in complete subjection to the State, soon divested it of all real power. In Scotland it was the work of the people, and every step in the Church's progress has placed it more and more under popular control. Great and beneficial as the results have been in the development of the national character, they have not been altogether an un-mixed good. With a democratic church came some of the evils of democracy, and the opinions of an unenlightened majority too frequently tyrannised over the wiser few. When Presbyterianism became the established religion, these evils of course increased. Kirk-sessions obtained the awful power of domiciliary visitation, and were able to hand over offenders against their ordinances to the civil magistrate for punishment. Parents and house-keepers were admonished to keep their children and servants within doors on the Lord's day, and elders and deacons patrolled the streets in time of public worship, accompanied by a beadle and officer, armed with powers to visit all houses in which they might suspect anything amiss.¹

¹ See a Scottish Ecclesiastical Act, passed at Edinburgh, 7th June 1709, quoted by Cox in *Sabbath Laws*, p. 149.

Such were the causes which have made Sunday, even to this time, a day of greater sternness in Scotland than in England. We repeat that it was not so originally, and we think we see evidence that it will not be so much longer. It is becoming more and more apparent that the severity with which the day has been observed in past times, was neither countenanced by Scripture, supported by history, nor blessed by experience; and in the face of this conviction the rigidity of former discipline is happily giving place to the spirit of Christian liberty. And in England, too, the same change is going on.

But, though based on principles the most erroneous, Puritan Sunday has been of undoubted service to us in the organisation of our social life. Dull and cheerless as it was, and cruelly as its heavy discipline was maintained, it has been attended with an amount of good which has more than compensated the worst evils it has wrought. We do not say this to apologise for its continuance. The severity of former times cannot now be renewed, that of present times even cannot well be maintained without a breach of the first condition under which it has proved a blessing. The great boon of the Puritanic Sunday has been a lesson of self-denying earnestness, which sprang from strong and well-defined convictions transmitted from father to son during the last two hundred years,—a rich inheritance, which I trust we may yet preserve amid the growth of new ideas and the remodelling

of opinions. To be worthy of it, we must not shut our eyes to facts, or pretend still to hold tenaciously a faith which fuller knowledge is eradicating. Our forefathers believed without a doubt the Sabbath to be imposed on them as much as on the Jews. "The times of this ignorance God winked at, but now commandeth all men everywhere to repent." It will not do to imagine we are doing God service in putting down Sunday trains or fining Sunday haymakers.¹ Let us diminish Sunday labour as much as possible; but for man's sake, not for God's.

It may be doubted, indeed, whether this great practical good, so important in a country like England, where industrial energy and the desire of accumulation hardly leave men either souls or bodies which they can call their own—that every man has a right to immunity from labour at least one day in seven—could have been secured to our people to the extent it has been without the strong convictions and iron will of our Puritan forefathers. We need not fear, however, that the boon thus given can ever be taken from a people that knows its value. Our English Sundays need not henceforth be less to us than they have been. As we better appreciate the true character of the day, they ought rather to be more. Let them still be what they were so beautifully described by Henry

¹ In the autumn of 1863 a number of farmers and labourers at Leigh, near Manchester, were prosecuted for making hay on Sunday with the view of saving their crop from a coming storm, and distress warrants were served on them after conviction.

Vaughan in the seventeenth century, in words which Dr. Hessey has adopted as the motto of his *Bampton Lectures* :—

“Bright shadows of true rest ! some shoots of blisse ;
Heaven once a week ;
The next world's gladness prepossest in this ;
A day to seek
Eternity in time ; the steps by which
We climb above all ages ; lamps that light
Man through his heap of dark days ; and the rich
And full redemption of the whole week's flight.”

J. G.

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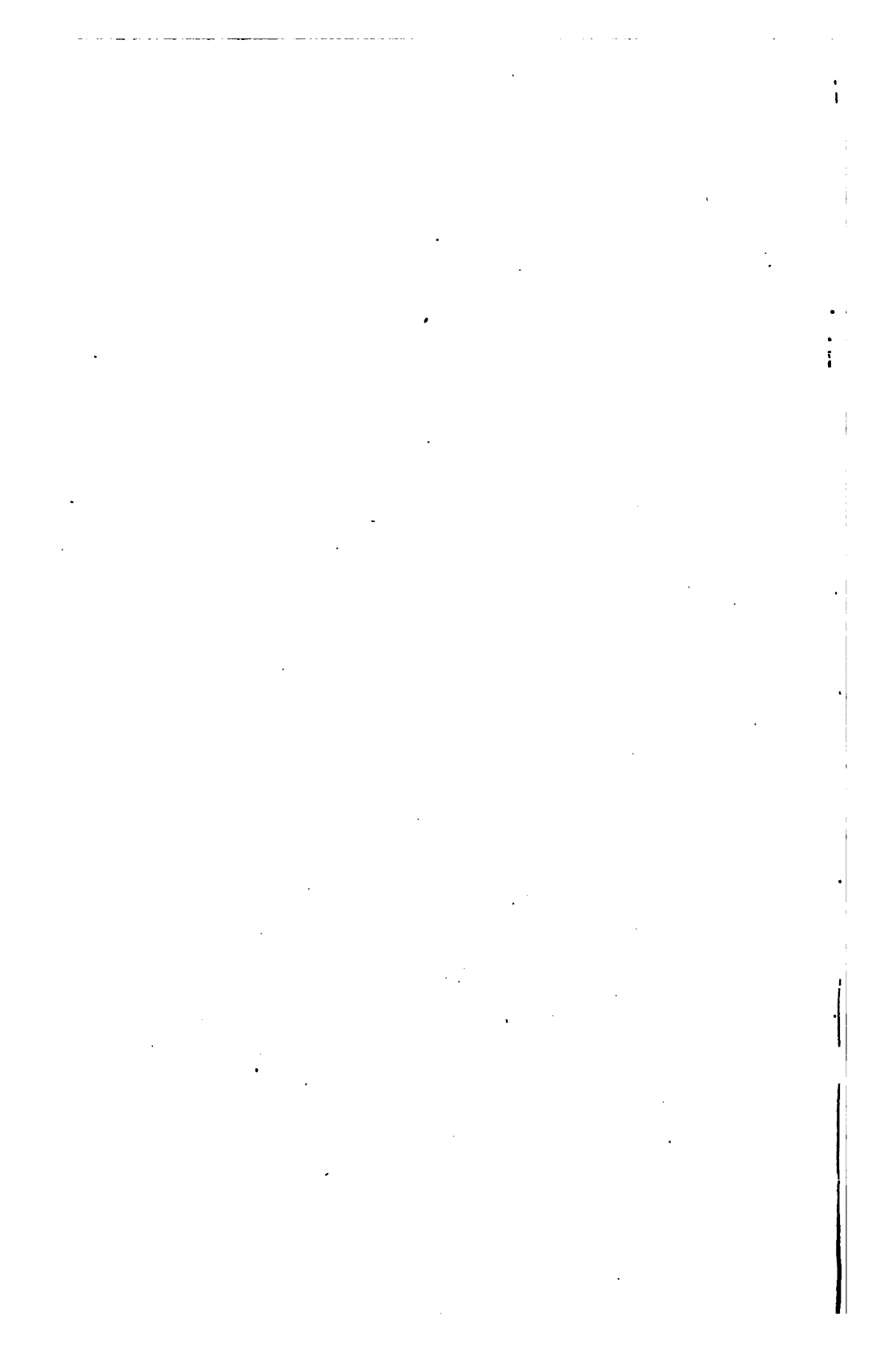
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Erratum.—P. 168, line 16, for "to me of you" read "of me to you."





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